

WINSTON & STRAWN LLP

SUITE 718, CHINA WORLD OFFICE 1
1 JIANGUOMENWAI AVENUE
BEIJING 100004, CHINA

214 NORTH TRYON STREET
CHARLOTTE, NORTH CAROLINA 28202-1078

35 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60601-9703

43 RUE DU RHÔNE
1204 GENEVA, SWITZERLAND

GLOUCESTER TOWER
11TH FLOOR
THE LANDMARK
15 QUEEN'S ROAD CENTRAL
HONG KONG, CHINA

99 GRESHAM STREET
LONDON, EC2V 7NG, UK

101 CALIFORNIA STREET
SAN FRANCISCO, CALIFORNIA 94111-5802

+1 (415) 591-1000

FACSIMILE +1 (415) 591-1400

www.winston.com

333 SOUTH GRAND AVENUE
LOS ANGELES, CALIFORNIA 90071-1543

SUITE A350, 4 STASOVOY STREET
MOSCOW, 119071, RUSSIAN FEDERATION

200 PARK AVENUE
NEW YORK, NEW YORK 10166-4193

ONE RIVERFRONT PLAZA, SUITE 730
NEWARK, NEW JERSEY 07102-5401

25 AVENUE MARCEAU, CS 31621
75773 PARIS CEDEX 16, FRANCE

UNIT 806, SHANGHAI KERRY CENTRE
1515 NANJING ROAD WEST
JINGAN, SHANGHAI 200040, CHINA

1700 K STREET, N.W.
WASHINGTON, D.C. 20006-3817

March 25, 2010

BY OVERNIGHT DELIVERY AND E-MAIL

Vice Chair James D. Boyd
Chair Karen Douglas
Paul Kramer
Siting Committee
California Energy Commission
1516 Ninth Street
Sacramento, California 95814

DOCKET
08-AFC-3

DATE MAR 25 2010

RECD. APR 08 2010

Re: Marsh Landing Generating Station Project (Docket 08-AFC-3)

Dear Committee Members:

Mirant Marsh Landing, LLC (“Mirant”) provides this letter to advise the Committee of contractual deadlines for the Marsh Landing Generating Station (“Marsh Landing”) that affect the schedule in this proceeding. Mirant has finalized key commercial arrangements necessary to finance and build Marsh Landing. With these commitments in place, Marsh Landing is a commercially viable project and construction is projected to commence as soon as December 2010. To maintain the current schedule, Mirant must meet contractual deadlines and obligations that trigger the need for a Commission license by August 25, 2010. Mirant therefore respectfully asks the Committee to establish a schedule for Marsh Landing that results in a Commission decision at its August 25, 2010 business meeting. The basis for this request is explained below.

In September 2009, Pacific Gas and Electric Company (“PG&E”) selected Marsh Landing as one of three winning projects in PG&E’s 2008 solicitation for new generating capacity. Mirant and PG&E executed a long-term power purchase agreement (“PPA”) for Marsh Landing on September 2, 2009. Marsh Landing has a peak July capacity rating of 719 megawatts and represents almost half of the new capacity selected in PG&E’s solicitation. The PPA provides for Marsh Landing to commence commercial operation in May 2013.

PG&E is actively seeking approval from the California Public Utilities Commission (“CPUC”) for the Marsh Landing PPA. PG&E filed the PPA with the CPUC on September 30, 2009 and review is pending in CPUC Docket A.09-09-021. In the same proceeding, PG&E is requesting approval for a contract with Mirant’s affiliate, Mirant Delta, LLC (“Mirant Delta”), that provides for the retirement of the remaining units at the Contra Costa Power Plant (“CCPP”). The CCPP is an aging plant that utilizes once-through cooling technology and is located at a site adjacent to the Marsh Landing site. Mirant Delta has agreed to retire the CCPP units after April 30, 2013, subject to regulatory approval. A CPUC decision is scheduled for July 8, 2010.

Testimony in the CPUC proceeding explains that Marsh Landing’s capacity and operating capabilities are needed to support integration of the growing fleet of intermittent renewable resources and to provide important ancillary services, including non-spinning reserves (providing the ability to start-up on extremely short notice), spinning reserves over a large range, regulation up or down to balance the system, and voltage support.¹ This is based on Marsh Landing’s quick start and intra-day ramping capabilities. Marsh Landing will have the ability to ramp at a rate of up to 30 megawatts per minute and each of the four turbines will be able to start-up and reach full load in approximately 12 minutes. Marsh Landing also offers short minimum run times and therefore will not be constrained from starting and ramping up to meet emergency needs and then shutting back down when no longer needed.² Testimony in the CPUC proceeding also explains that Marsh Landing was a clear winning project in PG&E’s solicitation based on assessments that Marsh Landing is valuable for PG&E’s system reliability and has a favorable net market value and capacity price.³ This testimony supports a CPUC decision approving the Marsh Landing PPA.

Mirant also has finalized a turbine supply contract and an engineering, procurement, and construction contract (collectively, “Vendor and Construction Contracts”) for Marsh Landing. The Vendor and Construction Contracts, coupled with the executed PPA, ensure that the key commercial commitments are in place to support project financing and allow construction to proceed once the permitting process is complete.

While the executed contracts give Marsh Landing a high degree of commercial viability, they also impose deadlines that trigger a requirement for a Commission license in the very near future. The PPA imposes development and construction milestones for Marsh Landing, including a commercial operation date in May 2013. The Vendor and Construction Contracts contain commitments that will enable Mirant to meet the PPA milestones, but they require Mirant to authorize its counterparties to start the long lead-time detailed engineering, procurement, manufacturing, and assembly work later this year. To provide that authorization,

¹ PG&E Reply Testimony in CPUC Docket A.09-09-021 (March 10, 2010) at 17-19.

² *Id.* at 19.

³ CPUC Division of Ratepayer Advocates Reply Testimony in CPUC Docket A.09-09-021 (March 10, 2010) at 1-2.

Mirant must significantly increase its financial commitments to the project to levels that are untenable absent a Commission license.

Working backward from the contract dates, to maintain the project schedule, which provides for the commencement of significant additional financial commitments later this year and on-site construction to start as soon as December 2010, Mirant will need a Commission decision in this proceeding by August 25, 2010. Mirant therefore asks the Committee to adopt a schedule that provides for a final decision on Marsh Landing to be voted on at the Commission's August 25, 2010 business meeting.

We note that the Bay Area Air Quality Management District completed its Preliminary Determination of Compliance ("PDOC") for Marsh Landing and forwarded it to the Commission earlier this week. The public comment period on the PDOC will close in late April and a Final Determination of Compliance should follow shortly thereafter. Commission staff has advised that a Staff Assessment will be released on or about April 15, 2010. It therefore should be feasible to identify a schedule for hearings that facilitates a Commission decision in August.

We recognize that this request asks for attention to Marsh Landing at a time when the Commission is prioritizing pending solar projects. Marsh Landing is a viable project that is needed to support and integrate a growing portfolio of solar and wind generation, and is very likely to be built if a Commission license is timely issued. Applying resources to this proceeding at this time is consistent with and will advance the State's energy policy goals.

Thank you for your consideration of Mirant's request. We are available to discuss any questions you may have regarding this request or the overall schedule at your convenience. We recognize that the Commission and its Staff are experiencing an unprecedented work load. We very much appreciate your efforts and assistance in completing this proceeding.

Respectfully submitted,



Lisa A. Cottle
Winston & Strawn LLP
Counsel for Mirant Marsh Landing, LLC

Cc: Proof of Service List for Docket 08-AFC-3

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA**

Application for Certification for the
Mirant Marsh Landing Generating Station Project

Docket No. 08-AFC-3

DECLARATION OF SERVICE

I, Lisa A. Cottle, declare that on March 25, 2010, I served and filed copies of the attached **Letter to Marsh Landing Siting Committee dated March 25, 2010**. The original document filed with the Docket Unit is accompanied by a copy of the most recent Proof of Service list, located at the web page for this project at **<http://www.energy.ca.gov/sitingcases/marshlanding/index.html>**. The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

- For service to all other parties: Sent electronically to all email addresses on the Proof of Service list; and by depositing in the United States mail at San Francisco, California with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list to those addresses **NOT** marked as "email preferred."

AND

- For filing with the Energy Commission: Sent a paper copy and one electronic copy, mailed and emailed respectively, to the address below:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 08-AFC-3
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct.



Lisa A. Cottle



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

**APPLICATION FOR CERTIFICATION
FOR THE MARSH LANDING
GENERATING STATION**

Docket No. 08-AFC-3

PROOF OF SERVICE
(Revised 2/17/2010)

APPLICANT

Chuck Hicklin, Project Manager
Mirant Corporation
P.O. Box 192
Pittsburg, CA 94565
E-mail preferred
chuck.hicklin@mirant.com

Jonathan Sacks, Project Director
Steven Nickerson
Mirant Corporation
1155 Perimeter Center West
Atlanta, GA, 30338
E-mail preferred
jon.sacks@mirant.com
steve.nickerson@mirant.com

CONSULTANTS

Anne Connell
Dale Shileikis
URS Corporation
221 Main Street, Suite 600
San Francisco, CA 94105-1917
E-mail preferred
Anne_Connell@URSCorp.com
Dale_shileikis@URSCorp.com

COUNSEL FOR APPLICANT

Lisa Cottle
Takako Morita
Winston & Strawn LLP
101 California Street
San Francisco, CA 94111-5802
E-mail preferred
lcottle@winston.com
tmorita@winston.com

INTERESTED AGENCIES

California ISO
e-recipient@caiso.com

INTERVENORS

California Unions for Reliable
Energy ("CURE")
Gloria D. Smith & Marc D. Joseph
Adams Broadwell Joseph &
Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, California
94080
gsmith@adamsbroadwell.com
mdjoseph@adamsbroadwell.com

ENERGY COMMISSION

JAMES D. BOYD
Vice Chair & Presiding Member
jboyd@energy.state.ca.us

KAREN DOUGLAS
Chair & Associate Member
kldougla@energy.state.ca.us

Paul Kramer
Hearing Officer
pkramer@energy.state.ca.us

Mike Monasmith
Project Manager
mmonasmi@energy.state.ca.us

Dick Ratliff
Staff Counsel
dratliff@energy.state.ca.us

*Jennifer Jennings
Public Adviser
publicadviser@energy.state.ca.us