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December 2, 2008

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08-AFC-6

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Re: Staff Data Requests 1 through 48 for the Willow Pass Generating Station (Docket No. 08-AFC-6)

Dear Mr. Benci-Woodward, Presiding Member Douglas, and Associate Member Boyd:

Mirant Willow Pass, LLC, the applicant seeking certification of the Willow Pass Generating Station ("WPGS"), ("Mirant Willow Pass") submits this notice pursuant to Section 1716(f) of the regulations of the California Energy Commission ("Commission")¹ regarding Staff Data Requests 1 through 48 ("Data Requests"). Mirant Willow Pass is working diligently to prepare responses to the Data Requests and expects to submit most of its responses on or before December 15, 2008, the date agreed to by Mirant Willow Pass and Staff. As explained below, however, Mirant Willow Pass requires additional time to complete its responses to nine Data Requests, namely Data Request 10 (Biological Resources), Data

¹ Title 20 of the California Code of Regulations § 1716(f) ("Section 1716(f)").

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Request 31 (Soil and Water Resources), Data Requests 37-40 (Transmission System Engineering), and Data Requests 42-44 (Waste Management).

For Data Requests 37-40, which address Transmission System Engineering, extra time is needed to allow Mirant Willow Pass's third party transmission consultant to prepare certain studies and reports that normally would be provided by the California Independent System Operator ("CAISO") and Pacific Gas and Electric Company ("PG&E"). As the Commission is aware, the CAISO had suspended the processing of applications for Large Generator Interconnection Agreements ("LGIAs") while it devised a new system for reviewing and approving LGIA applications. Mirant Willow Pass has met the requirements to have the WPGS included in the CAISO's "transition cluster group" and expects the CAISO and PG&E to resume processing its application some time later this month. Although Mirant Willow Pass has engaged a third party transmission consultant to prepare the studies and data that Staff requires to conduct its analysis of the WPGS, not all of the information requested in the Data Requests can be prepared by a consultant. Instead, PG&E and the CAISO will need to supply certain requested data and analyses, as explained below. For other Data Requests, Mirant Willow Pass's consultant simply requires additional time to complete the studies and prepare the requested data. The consultant has been in regular contact with Staff's technical leads in the area of Transmission System Engineering to agree upon the scope of those studies and the format of the required data. The responses below reflect those discussions.

Mirant Willow Pass also states objections to three Data Requests, namely Data Request 39 (Transmission System Engineering), Data Request 43 (Waste Management) and Data Request 48 (Visual Resources), as also explained below.²

Each Data Request addressed herein is reproduced below under headings noting the applicable technical area. Except as otherwise specified, capitalized terms have the meanings assigned in the Data Requests.

Biological Resources

Data Request 10: Please provide staff with a copy of the Streambed Alteration Agreement application filed with CDFG and the Section 401 Water Quality Certification application filed with the RWQCB. Please also supply any report of conversation, written correspondence, and agency contact information that has been compiled and is related to the proposed trenching of Kirker Creek.

² Mirant Willow Pass also asserts a general objection to each of Data Requests 1-48 (whether or not such objections are separately set forth in this or any subsequent response) to the extent that it: (1) seeks disclosure of information containing privileged communications or attorneys' work product on grounds that such discovery is not permissible under the California Evidence Code (the inadvertent disclosure of such information is not intended to be a waiver of any privilege or protection and shall not be deemed a waiver of any privilege or protection); or (2) purports to require Mirant Willow Pass to obtain information from or with respect to persons or entities over which Mirant Willow Pass has no control.

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Response to Data Request 10: Mirant Willow Pass is not able to provide the requested applications at this time as they have not yet been submitted to the agencies. Mirant Willow Pass is currently working with Delta Diablo Sanitation District (“DDSD”) to evaluate the feasibility of installing the water supply and wastewater discharge pipelines in locations that could obviate the need for a federal Clean Water Act Section 404 permit from the US Army Corps of Engineers, a Streambed Alteration Agreement from CDFG, and a Section 401 Water Quality Certification from the RWQCB. Mirant Willow Pass expects to provide an update on the feasibility of this approach in its responses to Data Requests 1-4 on December 15, 2008. To the extent that any or all of these permits are determined to be necessary, Mirant Willow Pass would submit the relevant applications in sufficient time to allow the permits to be issued prior to the date when construction on the water supply and wastewater discharge pipelines needs to start. Depending on the outcome of its discussions with DDSD, Mirant Willow Pass may provide more information regarding the submission of these applications in its December 15, 2008 response. Mirant Willow Pass previously provided the Commission with copies of its communications with the CDFG and with the United States Fish and Wildlife Service in its Application for Certification (“AFC”) Supplement Appendix B2.

Soil and Water Resources

Data Request 31: Please provide a DDSD Board approved agreement for the long-term delivery (30-35 years) of tertiary treated recycled water at a peak delivery rate of 1,400 gallons per minute and up to 1.5 million gallons per day.

Response to Data Request 31: Mirant Willow Pass is not able to provide the requested agreement as this time. Mirant Willow Pass and DDSD are in discussions regarding the terms of a long-term recycled water supply agreement for the WPGS, but an agreement has not yet been finalized. Mirant Willow Pass expects to have an executed DDSD Board-approved agreement in place before construction of the WPGS begins. DDSD has provided a “will serve” letter for the WPGS, which was submitted with the AFC (Appendix I).

Transmission System Engineering

Data Request 37: To eliminate overload on the Alham Tap2-Oleum 115 kV line, select the mitigation alternative of an operational procedure or the installation of a SPS with the amount of the WPGS generation curtailment. Provide evidence that the curtailment of WPGS generation is feasible, preferably with a letter from the California ISO and from PG&E.

Response to Data Request 37: Mirant Willow Pass is not able to select a mitigation alternative or confirm its feasibility at this time. As noted above, the CAISO had suspended processing LGIA applications while it devised a new system for reviewing and approving LGIA applications. Mirant Willow Pass filed its LGIA application and submitted its deposit in time for the WPGS to be included in the CAISO’s transition cluster group. Prior to November 25, 2008 (the deadline set by the CAISO), Mirant Willow Pass submitted the required forms and additional payments to the CAISO for inclusion as part of the transition cluster study

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which resumes the CAISO's LGIA process. Commencing this month, Mirant Willow Pass expects to re-initiate discussions with the CAISO and PG&E regarding appropriate and feasible mitigation measures, although some of these analyses will be part of the CAISO's LGIA process. Mirant Willow Pass will follow up with Staff in response to Data Request 37 as soon as it receives the requisite feedback from the CAISO and PG&E. While awaiting this feedback, Mirant Willow Pass will identify, as part of its response due December 15, 2008, the operational procedures that Mirant Willow Pass prefers as mitigation in lieu of installation of a special protection system (SPS).

Data Request 38: Provide the following analyses with a list of contingencies studied for the addition of the proposed WPGS 550 MW power output by using the 2013 summer peak case:

- a) Power flow analysis for critical Category B contingencies of possible combinations of a transmission line/transformer and a generator (L-1 & G-1).
- b) Power flow analysis for critical Category C contingencies of multiple transmission elements (such as 230 kV & 115 kV buses or bus sections around Pittsburgh [sic] and Contra Costa or others).
- c) Transient stability analysis for critical Category B (N-1) and Category C (N-2) contingencies of the PG&E bulk power (230 kV & 500 kV) transmission lines/transformers and for full load rejection of the proposed WPGS generators with monitoring of voltages, frequencies and generator rotor angles.
- d) Short circuit analysis for three line-to-ground faults. If the data is available, the analysis for single line-to-ground faults should be performed.
- e) Post-transient voltage analysis with governor power flow for selected single and double contingencies.
- f) Reactive power deficiency analysis for selected single and double contingencies.

Provide the study results of each analysis in a Table format with pre and post-project data, if applicable.

Response to Data Request 38: Mirant Willow Pass requires additional time to complete the analyses requested in subparts (a), (b), (c) and (f). Mirant Willow Pass has engaged its third party transmission consultant to prepare the requested analyses and the work is in progress, but will not be complete by December 15, 2008. Mirant Willow Pass will submit responses to Staff on a rolling basis as they become available from the consultant. Mirant Willow Pass understands that its consultant will be able to finish all of the work committed to herein in response to Data Requests 37-40 by early February 2009.

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Mirant Willow Pass is unable to perform the analysis or provide the data requested in subpart (d), which asks for a “short circuit analysis for three line-to-ground faults.” PG&E owns the existing transmission system and is the only entity that can perform these studies accurately. Neither Mirant Willow Pass nor its consultant have access to the impedance models and equipment rating limitations of every serial element in the PG&E Bay Area system, which are needed to perform the analysis accurately. Additionally, this analysis will be performed by PG&E at the request of the CAISO in later studies. It is expected that the equipment upgrades associated with Short Circuit Duty Analyses would be limited to inside the existing footprints of existing substations.

Mirant Willow Pass also is unable to perform the analysis or provide the data requested in subpart (e), which asks for “post-transient voltage analysis with governor power flow for selected single and double contingencies.” Based on conversations with Staff, Mirant Willow Pass instead proposes to provide the results of the Reactive Power Deficiency Analysis (referred to in WECC as the 5% and 2½% reactive margin test) for single and double contingencies in lieu of Staff’s requested post-transient voltage analysis with governor power flow for selected single and double contingencies. A Reactive Power Deficiency Analysis will demonstrate how the project impacts reactive margin. In the event a contingency is found in the post-project power-flow case showing a no-solve, then Mirant Willow Pass will conduct the post-transient voltage analysis with governor power flow, modeling those exact conditions with margin curves presented. Assuming this is acceptable to Staff, the analyses will be provided on a rolling basis as they are available from the consultant, with all elements to be provided by early February 2009.

Data Request 39: Submit a power flow analysis report for interconnection of the proposed 550 MW WPGS to the PG&E Pittsburgh [sic] 230 KV switching station with a 2013 summer off-peak full-loop base case or a 2013 spring peak full-loop base case (preferable). The power flow analysis should be performed for normal (N-0) system conditions with all facilities in service, and for Category B (N-1, L-1 & G-1) and Category C (N-2 or more) contingencies. Provide a mitigation plan for any identified reliability criteria violations in the PG&E grid. Provide a list of contingencies studied and the study results of the analysis in a table format with pre and post-project data. In the report list all major assumptions in the base case including major path flows, major generator dispatch including queue & hydroelectric generation and loads in the area systems. Also identify the reliability and planning criteria utilized to determine the reliability criteria violations. Provide power flow diagrams (units in MW, percentage loading and per unit voltage) with and without the WPGS generation output for the base cases. Power flow diagrams should also be provided for all overloads or voltage criteria violations under normal system (N-0) or contingency (N-1 & N-2) conditions.

Response to Data Request 39: As mentioned previously to Staff, Mirant Willow Pass objects to the request for a power flow analysis report using a 2013 summer off-peak full-loop base case or a 2013 spring peak full-loop base case. The operational attributes of the WPGS allow for extensive load following (including the ability to operate within emissions compliance levels at as low as 60 percent of base load), rapid dispatch cycling, and

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ten-minute start time functionality. The summer off-peak and spring peak cases are not affected by the addition of the proposed units on the transmission system. The proposed units are not base-load units that are inflexible in dispatch required, for example, to run through the night to meet the next day's dispatch. In an off-peak time, if necessary, the proposed units will be de-committed (turned off) and will be available for dispatch the next day in time for the morning and/or afternoon load ramps. An analysis of spring conditions is also not necessary given that the project will be located in the Greater Bay Area Local Reliability Area. In fact, Staff previously confirmed that spring studies are not necessary for this project prior to the Commission's data adequacy determination.

The Commission's analysis of the WPGS project's impacts in the area of transmission system engineering should focus on the summer peak periods when the transmission system will be most taxed. Mirant Willow Pass already provided an analysis of transmission system impacts during the summer peak periods in its system impact study for the WPGS. Mirant Willow Pass therefore objects to the request for the summer off-peak and spring peak conditions analysis on grounds that it is not necessary to the Commission's evaluation of the project's impacts.

Data Request 40: Provide electronic copies of *.sav,*.drw. *.dyd and *.swt GE PSLF files and EPCL contingency files in a CD.

Response to Data Request 40: Mirant Willow Pass requires additional time to provide electronic copies of *.sav,*.drw.,*.dyd and *.swt GE PSLF files. Mirant Willow Pass has engaged its consultant to prepare the files and the work is in progress, but will not be complete by December 15, 2008. Mirant Willow Pass will submit responses to Staff on a rolling basis as they become available from the consultant, and will submit everything no later than early February 2009.

Mirant Willow Pass is unable to provide electronic copies of EPCL contingency files. Representations of this data previously were provided to Staff in *.pdf file format, but the third party consultant will not release the electronic versions because it considers those files to be proprietary. Mirant Willow Pass does not have access to the electronic files and is unable to supply them to Staff.

Waste Management

Data Request 42: Please list the regulatory agencies that reviewed or commented on the Phase I and Phase II ESAs and provide copies of that correspondence.

Response to Data Request 42: Mirant Willow Pass is not able to provide the information requested in Data Request 42 because the requested information is not and has not ever been in Mirant Willow Pass's possession, custody, or control. The Phase I and Phase II ESAs referenced in Data Request 42 were prepared in 1997 and 1998, respectively, for PG&E, the former owner of the Mirant Willow Pass site. Neither Mirant Willow Pass nor its affiliates

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(including the affiliate that currently owns the site) are aware of which agencies (if any) reviewed or commented on the Phase I and Phase II ESAs, nor is Mirant Willow Pass in possession of any agency correspondence. Further, the ESAs do not contain any references to agency review and comment.

Data Request 43: Please conduct and provide a Phase II ESA that addresses all RECs found in the Phase I ESA.

Response to Data Request 43: Mirant Willow Pass objects to the request for a completed Phase II ESA by December 15, 2008 on grounds that it is not necessary at this time in order to analyze the project's potential impacts, and not feasible for all RECs. Mirant Willow Pass provided Staff with a copy of the 1998 Fluor Daniel Phase II ESA ("1998 Phase II"), which was developed to address the RECs identified at the site in the 1997 CDM Phase I ESA ("1997 Phase I"). The 1998 Phase II provides sufficient soil and groundwater analytical data to assess whether the RECs identified in the 1997 Phase I, and in the updated Phase I ESA prepared for Mirant Willow Pass, could result in potential impacts on worker and public health. The 1998 Phase II also identifies areas within the existing power plant that could not be addressed during the Phase II investigation because they were operational, including electricity generating units, fuel oil tank 7, and aboveground/underground pipelines. These access restrictions still exist at the site. Therefore, it is not feasible to undertake Phase II investigation activities in these areas until demolition and/or removal of these structures has been completed.

Mirant Willow Pass will address the need to further investigate any identified RECs in sufficient time to allow construction to proceed. However, the results of the 1998 Phase II should provide sufficient information to allow Staff to conduct its analysis. In addition, as is typical for construction activities at heavy industrial sites such as a power plant, potential exposure to subsurface contaminants by construction workers or the public during construction activities would be managed through the development of a Site Safety Plan for activities during construction. This would provide proper monitoring, personnel protection equipment, and engineering controls during construction in order to minimize potential exposures. Additionally, Mirant Delta, LLC, the current owner of the site, has certain contractual obligations to coordinate with the former owner of the site relating to the management of certain hazardous substances that might be present at the site. These obligations arise from contractual arrangements in which the former owner retained responsibility for certain remediation activities at the site. Once Mirant Delta, LLC has satisfied its contractual obligations with respect to the former owner of the site, Mirant Willow Pass will follow up with Staff in response to Data Request 43.

Data Request 44: Please determine if any linear facilities, such as segments of the natural gas pipeline, water pipeline, and the wastewater discharge pipeline, will be constructed in areas requiring remediation. Provide a Phase I ESAs for the natural gas pipeline, the water pipeline, and the wastewater discharge pipeline. Provide a Phase II ESAs where RECs are identified.

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Response to Data Request 44: Mirant Willow Pass will require additional time to respond to Data Request 44. Mirant Willow Pass is working with DDS to refine the alignment of the water supply pipeline and wastewater discharge pipeline at the Pittsburg-Antioch Highway and Arcy Lane intersection and will evaluate whether any areas of the route contain RECs that are likely to require mediation. Once the route is finalized and any required easements or access rights are obtained, Mirant Willow Pass will work with the relevant third parties to obtain or conduct a Phase I ESA for the selected route. Once the Phase I ESAs are completed, Mirant Willow Pass will provide them to the Commission and evaluate the need to conduct a Phase II ESA.

The Phase I ESAs that were provided with the AFC already cover the route for the natural gas pipeline, as that route lies wholly within property owned either by Mirant Delta, LLC or PG&E. The 1998 Phase II discussed in response to Data Request 43 also should be sufficient at this time for the natural gas pipeline route.

Visual Resources

Data Request 48: Please provide a draft landscaping plan that would mitigate visual impacts from the project at the selected KOPs.

Response to Data Request 48: Mirant Willow Pass objects to Data Request 48 on grounds that it assumes, without explanation, that a landscaping plan is necessary to mitigate the project's visual impacts. Appendix B, section (g)(6)(H) of the Commission's Siting Certification Regulations states "If any landscaping is proposed to reduce the visual impacts of the project, provide a conceptual landscaping plan at a 1:40 scale (1"=40)" Mirant Willow Pass explained in the AFC (Section 7.11.2.5) that the WPGS project is not expected to have a significant impact in the area of visual resources. Staff has not presented evidence to the contrary and there is no basis at this time for requiring landscaping as a mitigation measure. Thus, because the project has not been shown to require landscaping as a mitigation measure, the siting regulation cited above does not apply. Furthermore, given that Mirant Willow Pass proposes to remove four existing retired generating units that have 211-foot tall exhaust stacks and associated boiler structures, and replace them with two generating units that have 150-foot, 6-inch tall exhaust stacks, the anticipated views of industrial features is reduced through this project as compared to the existing condition. This change will result in a net visual improvement to the surrounding areas.

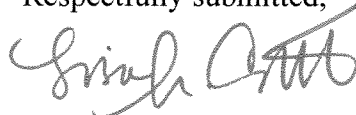
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We appreciate your consideration of this response. Mirant Willow Pass looks forward to working with Staff and the Committee to provide the information needed to analyze the WPGS.

Respectfully submitted,



Lisa A. Cottle

Winston & Strawn LLP

Attorneys for Mirant Willow Pass, LLC

Cc: Docket Office (08-AFC-6)
Proof of Service List

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

Application for Certification for the
Mirant Willow Pass Generating Station

Docket No. 08-AFC-6

PROOF OF SERVICE

I, Lisa A. Cottle, declare that on December 2, 2008, I served the attached *Notice re Staff Data Requests 1 through 48 for the Willow Pass Generating Station (Docket No. 08-AFC-6)* via electronic mail to all parties on the attached service list. I also sent a signed original of the foregoing via overnight delivery to the recipients specified on the first page, and mailed a properly addressed copy via first class mail with postage prepaid to all other parties on the attached service list.

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



Lisa A. Cottle

Service List (Docket No. 08-AFC-6)

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