

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

Petition of Florida Power & Light
Company for Approval of
Interconnection Agreement

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Docket No. _____
Filed: July 15, 1997

PETITION

Pursuant to Rule 25-22.036(4), F.A.C., Florida Power & Light Company ("FPL") hereby petitions the Florida Public Service Commission ("Commission") for approval of an Interconnection Agreement ("Agreement") between FPL and MM Tomoka Farms LLC ("MM"), dated June 30, 1997, and attached hereto as Appendix A. Any pleading, motion, notice, order or other document required to be served in this proceeding or filed by any other party to this proceeding should be forwarded to the following individuals:

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In support of this Petition, FPL states as follows:

Background

1. In March 1996, MM advised FPL of MM's desire to interconnect and operate MM's qualifying small power production facility (the "Facility"), to be located in Volusia County, Florida, and to be fueled by landfill gas, in parallel with FPL's electrical transmission system. Following approximately sixteen months of investigation, system design and negotiations between the parties, FPL and MM have entered into the Agreement.

Terms of the Interconnection Agreement

2. As set forth in Section 14.02 of the Agreement, FPL is to request the Commission's approval of the Agreement, and MM is to support such filing and approval.

3. Section 2.01 of the Agreement states that the Agreement is to become effective upon its date (i.e., 6/30/97), and continue in effect for an initial term ending December 31, 2016, with automatic two-year extensions absent FPL's or MM's election to terminate the Agreement.

4. Article VII and Exhibit D of the Agreement provide for a Specified Load and Generation Control Service charge to be assessed against MM. It is FPL's provision of this service at the formulary rate specified in the Agreement which necessitates the Commission's approval of the Agreement. See Sections 366.03, 366.04(1) and 366.06(1), F.S. (1995). Such service is similar (although bearing a different moniker) to the regulation service provided by FPL (i) to the City of Lake Worth, Florida, for FPL's delivery (wheeling) to Lake Worth of firm capacity and energy from a qualifying cogeneration facility located inside FPL's control area during the summer of 1991,¹ (ii) to Georgia-Pacific Corporation (G-P") under the terms of an interconnection agreement dated March 13, 1992, between FPL and G-P, which was approved by the Commission's Order No. PSC-92-0790-FOF-EQ issued in Docket No. 920582-EQ on August 10, 1992 (92 FPSC 8:152), and (iii) to Lee County, Florida, under the terms of an interconnection agreement dated October 29, 1992, between FPL and Lee County, which was approved by the

¹ The underlying methodology for such regulation service was accepted by the Federal Energy Regulatory Commission in Docket No. ER91-385-000, in which the FPL/Lake Worth transmission service agreement was approved.

Commission's Order No. PSC-93-0265-FOF-EQ issued in Docket No. 921200-EQ on February 22, 1993 (92 FPSC 2:570). In the latter Order, the Commission stated:

FPL's assessment of a Regulation Service Charge in the Lee County interconnection agreement is similar to its assessment for regulation service to Georgia-Pacific under the terms of an interconnection agreement that we approved in . . . 1992. In that order we did not intend to imply that we would automatically approve a regulation service assessment fee. Under some circumstances a regulation service assessment fee may not be appropriate. We do think that the fee is appropriate in this agreement.

FPL respectfully submits that the close similarity between the MM and the Lee County situations and interconnection agreements fully warrants the Commission's approval of the Specified Load and Generation Control Service Charge in this Docket.

5. The remaining provisions of the Agreement, although they are case-specific to the MM Facility and its integration with FPL's system, are not materially different from those contained in other interconnection agreements between FPL and owners/operators of "qualifying facilities."

WHEREFORE, FPL respectfully requests the Commission to approve the Agreement so as to fully permit its rates, terms and conditions to govern the parties' relationship with respect to MM's landfill-gas-fired facility in Volusia County and its interconnection with FPL's electrical transmission system.

Dated this 14th day of July, 1997.

INTERCONNECTION AGREEMENT
BETWEEN
FLORIDA POWER & LIGHT COMPANY
AND
MM TOMOKA FARMS LLC

TABLE OF CONTENTS

RECITALS	1
ARTICLE I	1
DEFINITIONS	1
Section 1.01 - FPL Facilities	1
Section 1.02 - Interconnection Facilities	2
Section 1.03 - MM Facilities	2
Section 1.04 - MM Generation Facility	2
Section 1.05 - Operating Representatives	2
Section 1.06 - Past Due After Date	2
Section 1.07 - Point of Change of Ownership	3
Section 1.08 - Prime Rate	3
Section 1.09 - Protective Equipment	3
ARTICLE II	4
TERM	4
Section 2.01 - Term	4
ARTICLE III	4
INTERCONNECTION FACILITIES TO BE CONSTRUCTED	4
Section 3.01 - Interconnection Facilities	4
Section 3.01.01 - Construction Responsibilities of FPL	4
Section 3.01.02 - Construction Responsibilities of MM	4
Section 3.02 - MM Facilities	5
Section 3.03 - Final FPL Design	5
Section 3.04 - Delays	5
ARTICLE IV	5
INTERCONNECTION FACILITIES	5
Section 4.01 - MM Generation Facility	5
Section 4.02 - General	6
Section 4.02.01 - Hazardous or Unsafe Conditions	6
Section 4.02.02 - Disconnections	6
Section 4.02.03 - Synchronization	6
ARTICLE V	7
OPERATION, MAINTENANCE AND CAPITAL IMPROVEMENTS	7
Section 5.01 - General	7
Section 5.02 - FPL's Interconnection Facilities	7
Section 5.03 - MM Facilities	7

Section 5.04 - Changes by MM	8
Section 5.05 - Limitations on Parallel Operations	8
Section 5.06 - Harmonics	8
ARTICLE VI	8
COST RESPONSIBILITIES	8
Section 6.01 - MM's Cost Responsibilities	8
Section 6.02 - FPL's Cost-Related Responsibilities	9
ARTICLE VII	10
SPECIFIED LOAD AND GENERATION CONTROL SERVICE	10
Section 7.01 - Specified Load and Generation Control Service to Be Provided	10
Section 7.02 - Monthly Charge for Specified Load and Generation Control Service	10
7.02.01 - Daily Control Service Demand	10
7.02.02 - Hourly Control Swing	10
7.02.03 - Control Service Daily Demand Charge Rate	10
7.02.04 - Excluded Hours	10
Section 7.03 - Limitations on Specified Load and Generation Control Service	11
7.03.01 - Unique Service	11
ARTICLE VIII	11
BILLING AND PAYMENT	11
Section 8.01 - Billing and Payment for FPL Facilities	11
Section 8.01.01 - Initial Payments	11
Section 8.01.02 - Final Billing and Payment	12
Section 8.02 - Billing and Payment for Other Expenses	12
Section 8.03 - Disputed Bills	13
Section 8.04 - Disconnection of Facilities	13
Section 8.05 - Reimbursement of Costs Imposed on FPL	13
Section 8.06 - Challenges to Bills	13
ARTICLE IX	14
OPERATING REPRESENTATIVES	14
Section 9.01 - Operating Representatives	14
ARTICLE X	14
INSURANCE	14
Section 10.01 - Insurance	14
ARTICLE XI	15
INDEMNITY	15
Section 11.01 - Indemnification	15

ARTICLE XII	16
LIMITATION OF LIABILITY	16
Section 12.01 - Limitation of Liability	16
ARTICLE XIII	16
FORCE MAJEURE	16
Section 13.01 - Force Majeure	16
ARTICLE XIV	17
MISCELLANEOUS	17
Section 14.01 - Applicable State Law	17
Section 14.02 - FPSC Approval of Agreement	17
Section 14.03 - Default	18
Section 14.04 - Responsibility for the MM Generation Facility and the MM Facilities	18
Section 14.05 - Waivers	19
Section 14.06 - Successors and Assigns	19
Section 14.07 - Effect of Section Headings	19
Section 14.08 - Exhibits	19
Section 14.09 - Relationship of the Parties	19
Section 14.10 - No Dedication of the System	19
Section 14.11 - Notices	20
Section 14.12 - Complete Agreement	20
Section 14.13 - Execution of Counterparts	20
EXHIBIT A	A - 1
INTERCONNECTION CONFIGURATION	A - 1
EXHIBIT B	B - 1
ESTIMATE OF INTERCONNECTION FACILITIES TO BE PROVIDED BY FPL	B - 1
EXHIBIT C	C - 1
ESTIMATE OF INTERCONNECTION COSTS	C - 1
EXHIBIT D	D - 1
CONTROL SERVICE DAILY DEMAND CHARGE RATE	D - 1

1 equipment, data acquisition remote terminal unit(s), metering and recording devices, and other
2 related equipment and materials. In addition, FPL Facilities include one relay cabinet, one revenue
3 metering wall-mounted cabinet, one SSSDR wall-mounted cabinet and one transducer box, accessible
4 only to FPL personnel, located on MM's side of the Point of Change of Ownership. Exhibit A -
5 Interconnection Configuration, shows the Point of Change of Ownership between the FPL Facilities
6 and the MM Facilities.

7 **Section 1.02 - Interconnection Facilities:** All FPL and MM facilities which FPL determines are
8 necessary to interconnect the MM Generation Facility with FPL's system in a safe and reliable
9 manner pursuant to Section 3.01 of this Agreement, including, but not limited to, FPL Facilities,
10 Protective Equipment, the MM Facilities and related facilities (including, but not limited to, other
11 substation facilities) as shown on Exhibit A to this Agreement. The major components of the
12 Interconnection Facilities on FPL's side of the Point of Change of Ownership are shown on Exhibit
13 B to this Agreement.

14 **Section 1.03 - MM Facilities:** All facilities on MM's side of the Point of Change of Ownership,
15 with the exception of one FPL relay cabinet, one FPL revenue metering wall-mounted cabinet, one
16 FPL SSSDR wall-mounted cabinet and one FPL transducer box, accessible only to FPL personnel,
17 located on MM's side of the Point of Change of Ownership.

18 **Section 1.04 - MM Generation Facility:** Two 1900 kW gas-fired generators located at the North-
19 West section of the Volusia County Landfill Gas Recovery site at 1990 Tomoka Farms Road,
20 Daytona Beach, FL 32124.

21 **Section 1.05 - Operating Representatives:** Those individuals appointed by the respective Parties
22 pursuant to Section 9.01.

23 **Section 1.06 - Past Due After Date:** Ten (10) days from the date of mailing (as determined by
24 postmark) or delivery, as the case may be. If the Past Due After Date should fall on a Sunday or
25 on a Monday which is a holiday, then the Past Due After Date shall be the next business day after
26 such Sunday or holiday. If the Past Due After Date should fall on a Saturday or on any holiday
27 other than a Monday holiday, the Past Due After Date shall be the business day prior to such
28 Saturday or holiday. The following holidays, as observed by FPL, are the only holidays which shall
29 be considered in the above determinations: New Year's Day (January 1st); Martin Luther King, Jr.

1 Day (third Monday in January); Washington's Birthday (third Monday in February); Memorial Day
2 (last Monday in May); Independence Day (July 4th); Labor Day (first Monday in September);
3 Veterans' Day (November 11th); Thanksgiving Day (fourth Thursday in November); Christmas Eve
4 Day (December 24th); and Christmas Day (December 25th). If a holiday falls on a Saturday, it is
5 observed on the prior Friday and, if a holiday falls on a Sunday, it is observed on the following
6 Monday; however, if Christmas Eve falls on a Friday, it is observed on the prior Thursday or, if
7 Christmas Day falls on a Monday, it is observed on the following Tuesday. FPL shall have the
8 right, upon thirty (30) days' written notice, to revise the holidays pursuant to this Section 1.06.

9 **Section 1.07 - Point of Change of Ownership:** The point(s) at which the MM Facilities connect
10 to the FPL Facilities as shown on Exhibit A to this Agreement, with the exception of one FPL relay
11 cabinet, one FPL revenue metering wall-mounted cabinet, one FPL SDR wall-mounted cabinet and
12 one FPL transducer box, accessible only to FPL personnel, located on MM's side of the Point of
13 Change of Ownership and denoted by a dashed line on Exhibit A.

14 **Section 1.08 - Prime Rate:** The average of the prime lending rates reported in the Money Rates
15 column of the Wall Street Journal, as the "PRIME RATE", on the last business day of the applicable
16 month and the last business day of the preceding month. In the event that one or more of such
17 reports indicate a range of such rate, the average of the two limits shall be used in the calculation.
18 Similar data from the New York Times may be used if the Wall Street Journal is not published that
19 day.

20 **Section 1.09 - Protective Equipment:** Includes, but shall not be limited to, protective relays,
21 relaying panels, relaying cabinets, circuit breakers, conduits, cabling, current transformers, potential
22 transformers, coupling capacitor voltage transformers, wave traps, transfer trip and fault recorders,
23 which directly or indirectly provide input to relays, fiber optic communication equipment, power line
24 carrier equipment and telephone circuits, and any other equipment necessary to implement the
25 protection-related provisions of this Agreement.

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ARTICLE II

TERM

Section 2.01 - Term: The term of this Agreement shall commence on the date hereof and shall, except as provided in this Section 2.01 and in Section 14.02, continue in effect for an initial term which shall expire December 31, 2016, and thereafter shall automatically be extended for periods of two (2) years each; however, either Party may terminate this Agreement at the end of the initial term or at the end of any two (2) year extension hereof upon a minimum of two years' advance written notice to the other Party, or at any time upon mutual consent of the Parties. Upon any termination, MM shall reimburse FPL for all non-reimbursed costs and expenses incurred by FPL pursuant to this Agreement.

ARTICLE III

INTERCONNECTION FACILITIES TO BE CONSTRUCTED

Section 3.01 - Interconnection Facilities: The Parties shall, pursuant to this Agreement, design, engineer, modify, upgrade, install and construct the Interconnection Facilities necessary to connect the MM Generation Facility with FPL's system. A list of the estimated major components of the Interconnection Facilities to be provided by FPL is set forth on Exhibit B to this Agreement.

Section 3.01.01 - Construction Responsibilities of FPL: FPL shall, at MM's expense, design, engineer, modify, upgrade, install, construct and own the FPL Facilities, as FPL determines are necessary to interconnect the MM Generation Facility with FPL's system in a safe and reliable manner. Further, the design, engineering, installation and construction shall comply with all applicable laws, regulations and codes, including the National Electrical Safety Code, and shall be in accordance with prudent utility practices and FPL standards. FPL's estimate of these costs is shown on Exhibit C - Estimate of Interconnection Costs.

Section 3.01.02 - Construction Responsibilities of MM: Except for the FPL relay cabinet, the FPL wall-mounted metering cabinet, the FPL wall-mounted SDR cabinet, and the FPL transducer box identified in Section 1.01, MM shall, at its own expense, design, engineer, install, construct and own the Interconnection Facilities on MM's side of the Point of Change of Ownership necessary to interconnect the MM Generation Facility with FPL's system in

1 **Section 4.02 - General:** FPL and MM shall operate and maintain their respective Interconnection
2 Facilities in a safe and reliable manner and in accordance with prudent utility practices so as to
3 protect the reliability of FPL's system and the MM Facilities.

4 **Section 4.02.01 - Hazardous or Unsafe Conditions:** MM shall immediately notify FPL's
5 system operator (or such other FPL representative as may be designated in writing by FPL)
6 by telephone at 305-442-5744 in the event of MM's discovery of any hazardous or unsafe
7 condition(s) associated with the Parties' operations that affect the Interconnection Facilities
8 or FPL's system. If such conditions are detected by FPL, then FPL shall likewise contact
9 the operator of the MM Generation Facility by telephone. Each Party agrees to immediately
10 take whatever corrective action is necessary and appropriate to eliminate the hazardous or
11 unsafe condition(s).

12 **Section 4.02.02 - Disconnections:** The MM Generation Facility shall be promptly
13 disconnected from FPL's electrical system upon oral or written request given by FPL to MM
14 whenever FPL reasonably determines that such disconnection is necessary (i) to provide safe
15 and reliable service to FPL's customers, (ii) to protect FPL's generation, distribution or
16 transmission facilities, or (iii) when the disconnection is reasonably necessary for the purpose
17 of maintenance, testing, repairs, replacements or installation of equipment, or for
18 investigations and inspections of electrical facilities. In addition, the MM Generation Facility
19 may be automatically disconnected from FPL's system through the operation of Protective
20 Equipment. Following any disconnection of the MM Generation Facility, resynchronization
21 of the MM Generation Facility with FPL's electrical system shall only be accomplished
22 pursuant to Section 4.02.03.

23 **Section 4.02.03 - Synchronization:** Prior to the synchronization of the MM Generation
24 Facility with FPL's system, including, but not limited to, resynchronization following
25 disconnection of the MM Generation Facility pursuant to Section 4.02.02, the Parties'
26 Operating Representatives shall confer regarding such synchronization. The synchronization
27 of the MM Generation Facility shall be accomplished utilizing MM's synchronization
28 equipment, and in a safe and reliable manner consistent with FPL's practices for its own

1 equipment. Protective Equipment shall be installed by the Parties, at MM's expense, to
2 prevent inadvertent synchronization of the MM Generation Facility with FPL's system.

3 ARTICLE V

4 OPERATION, MAINTENANCE AND CAPITAL IMPROVEMENTS

5 **Section 5.01 - General:** Each Party shall own and be responsible for the operation and maintenance
6 of the Interconnection Facilities on such Party's side of the Point of Change of Ownership in
7 accordance with prudent utility practices.

8 **Section 5.02 - FPL's Interconnection Facilities:** FPL shall own and have the exclusive right to
9 modify, test, operate, and maintain the Interconnection Facilities on FPL's side of the Point of
10 Change of Ownership, plus the FPL relay cabinet, the two FPL wall-mounted cabinets and the FPL
11 transducer box identified in Section 1.01. Additionally, FPL shall have the exclusive right to design,
12 engineer, install, construct, own, modify, test, operate, and maintain any capital improvements and
13 replacements which FPL reasonably determines are required for the safe and reliable operation of
14 the Interconnection Facilities on FPL's side of the Point of Change of Ownership, plus the FPL relay
15 cabinet, the two FPL wall-mounted cabinets and the FPL transducer box identified in Section 1.01.
16 FPL shall bill MM for such costs in accordance with Article VIII. Notwithstanding the above, to
17 the extent that FPL makes any capital improvements to the Interconnection Facilities on FPL's side
18 of the Point of Change of Ownership for purposes other than accommodating or maintaining the
19 interconnection of the MM Generation Facility with FPL's system, MM shall not be responsible for
20 costs and expenses incurred by FPL in constructing, operating and maintaining such capital
21 improvements for such other purposes. Whenever possible, FPL shall provide MM notification of
22 any modifications to the Interconnection Facilities on FPL's side of the Point of Change of
23 Ownership.

24 **Section 5.03 - MM Facilities:** MM shall own, operate, and maintain the MM Facilities.
25 Additionally, MM shall design, engineer, install, construct, own, operate and maintain any capital
26 improvements which MM reasonably determines are required for the MM Facilities. MM shall
27 coordinate such capital improvements with FPL. MM shall fulfill its obligations under this Section
28 5.03 at its own expense.

1 **Section 5.04 - Changes by MM:** MM shall submit to FPL, for FPL's review and approval or
2 disapproval, any proposed change(s) to the MM Generation Facility when such proposed change(s)
3 could materially affect the electrical output, capability or reliability of the MM Generation Facility
4 or FPL's system. Any change(s) proposed by MM shall not be made prior to MM's receipt of
5 FPL's written approval, which shall not be unreasonably withheld. FPL's approval or disapproval
6 shall be provided to MM as soon as reasonably practicable. MM shall provide FPL with sufficient
7 project details and adequate advance written notice to allow FPL to properly evaluate the effect of
8 the change(s) on the interconnected operation of the MM Generation Facility with FPL's system.

9 **Section 5.05 - Limitations on Parallel Operations:** MM agrees that the Interconnection Facilities
10 are configured for parallel operation only through feeder No. 3834 via FPL's Willow Substation.
11 In the event this feeder No. 3834 is out of service for any reason or is served by any substation other
12 than FPL's Willow Substation, MM agrees to forego its ability to operate in parallel and shall cease
13 any activity which results in parallel operation.

14 **Section 5.06 - Harmonics:** MM shall take whatever measures are necessary to maintain the
15 harmonic distortion levels to that which is recommended by IEEE Standard 519. The harmonics
16 quantity shall be measured at the Point of Change of Ownership.

17 **ARTICLE VI**

18 **COST RESPONSIBILITIES**

19 **Section 6.01 - MM's Cost Responsibilities:** MM shall be responsible for, and hereby agrees to
20 reimburse FPL for, FPL's reasonably incurred costs and expenses in performing its obligations under
21 this Agreement, including, but not limited to:

- 22 (a) All direct and indirect costs of land, other property rights, labor, material, services
23 and studies incurred by FPL in connection with the ownership, design, construction,
24 operation, maintenance, repair and removal of the FPL Facilities and all other
25 equipment installed, operated and maintained by FPL directly in the performance of
26 its obligations under this Agreement;
- 27 (b) Payroll and other expenses of FPL's employees incurred in connection with FPL's
28 performance of its obligations under this Agreement, including allowances to reflect

1 the costs of payroll-related taxes, insurance (including that related to Workers'
2 Compensation, Employers' Liability and Unemployment Compensation Insurance),
3 pensions, benefits and overheads. Overhead loading rates shall be calculated in
4 accordance with FPL's then-current jobbing procedures, and may include indirect
5 engineering and supervision expenses, and other overhead expenses;

6 (c) Costs of labor, services and studies performed for FPL by contractors, jobbers and
7 consultants in connection with FPL's performance of its obligations under this
8 Agreement, including allowances for overheads as provided in item (b) above;

9 (d) Costs of materials, supplies, tools, machines, equipment, apparatuses and spare parts
10 incurred in connection with FPL's performance of its obligations under this
11 Agreement, including rental charges, transportation and stores expenses applicable
12 to such costs; and

13 (e) All costs imposed on FPL in connection with FPL's performance of its obligations
14 under this Agreement, including all federal, state and local taxes, impositions or
15 assessments of any character, including property and income taxes.

16 An estimate of the costs and expenses FPL expects to incur for designing, engineering, modifying,
17 upgrading, installing and constructing the Interconnection Facilities is shown on Exhibit C to this
18 Agreement. Nothing contained on such Exhibit C shall relieve MM of its obligation to pay FPL for
19 all costs and expenses incurred by FPL pursuant to this Agreement; however, nothing herein requires
20 MM to reimburse FPL for any monies owed by FPL to MM pursuant to other provisions (e.g.,
21 Section 11.01) of this Agreement.

22 **Section 6.02 - FPL's Cost-Related Responsibilities:** FPL shall be responsible for billing MM for
23 any costs and expenses owed by MM to FPL pursuant to this Agreement. Additionally, FPL shall
24 not be responsible for costs and expenses incurred by MM in fulfilling its obligations pursuant to this
25 Agreement.
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ARTICLE VII

SPECIFIED LOAD AND GENERATION CONTROL SERVICE

Section 7.01 - Specified Load and Generation Control Service to Be Provided: MM agrees that, through interconnection and parallel operation of the MM Generation Facility with FPL's system, FPL's generation resources will be compensating for all deviations in MM's generation and load. Therefore, FPL shall be providing MM with Specified Load and Generation Control Service.

Section 7.02 - Monthly Charge for Specified Load and Generation Control Service: The Monthly Specified Load and Generation Control Service Charge is the sum of each day's Daily Control Service Demand (measured in kW) during the billing period times the Control Service Daily Demand Charge Rate.

7.02.01 - Daily Control Service Demand: The Daily Control Service Demand (measured in kW) is the greatest Hourly Control Swing (measured in kW at the Point of Change of Ownership) for a calendar day.

7.02.02 - Hourly Control Swing: The Hourly Control Swing is equal to the highest instantaneous telemetered demand (measured in kW at the Point of Change of Ownership) minus the lowest instantaneous telemetered demand (measured in kW at the Point of Change of Ownership) during each clock hour received and recorded by FPL.

7.02.03 - Control Service Daily Demand Charge Rate: The Control Service Daily Demand Charge Rate will be calculated in accordance with Exhibit D to this Agreement.

7.02.04 - Excluded Hours: MM shall have the right, four times per calendar year, to designate, due to scheduled maintenance of the MM Generation Facility, one hour for shutdown and two consecutive hours for startup to be excluded from the Specified Load and Generation Control Service Hourly Control Swing, provided such designation is provided FPL at least 48 hours prior to such designated hours. Additionally, for any hour which FPL requests or requires MM to change the electrical output of the MM Generation Facility, such hour shall be excluded from the Specified Load and Generation Control Service Hourly Control Swing. Furthermore, excluded hours shall also include any instance identified by MM and communicated to FPL where, due to a fault on FPL's system, FPL's automatic relay equipment operates so as to trip the MM Generation Facility's tie main breaker and/or

1 the FPL interconnecting fault interrupter and isolates the MM Generation Facility from FPL's
2 system. In order to have these instances excluded from the Hourly Control Swing, MM shall
3 inform FPL within 30 days of such instance and FPL shall confirm that the action as
4 described above has taken place. As a result of these notification and confirmation
5 requirements, the hours determined to be excluded will be credited in the next bill rendered
6 by FPL to MM for Specified Load and Generation Control Service.

7 **Section 7.03 - Limitations on Specified Load and Generation Control Service;** MM agrees that
8 the rate, terms and conditions for Specified Load and Generation Control Service contained in this
9 Agreement shall apply only when generation capacity is interconnected and operated in parallel with
10 FPL's system at the MM Generation Facility, and shall be for a maximum capacity of up to 3,800
11 kW.

12 **7.03.01 - Unique Service;** The Parties agree that the rate, terms and conditions for Specified
13 Load and Generation Control Service contained herein (i) are specifically for MM Generation
14 Facility's interconnection and operation in parallel with FPL's system, (ii) are limited to such
15 purposes and this Agreement, and (iii) shall not establish any precedent for any other service;
16 nor shall either Party rely upon such rates, terms and conditions for any purpose other than
17 the specific service and payment provided in this Agreement.

18 ARTICLE VIII

19 **BILLING AND PAYMENT**

20 **Section 8.01 - Billing and Payment for FPL Facilities;**

21 **Section 8.01.01 - Initial Payments;** On, or before, July 15, 1997, MM shall remit to FPL
22 a check for one half of the total preliminary cost estimate as shown on Exhibit C, minus the
23 payment amount of \$115,569.83 previously received by FPL from MM as partial payment
24 for the cost that FPL expects to incur in the initial design of the Interconnection Facilities.

1 On, or before, August 15, 1997, MM shall remit to FPL a check for the remaining one half
2 of the total preliminary cost estimate as shown on Exhibit C, minus any payment previously
3 received by FPL from MM as partial payment for the cost that FPL expects to incur in
4 design of the Interconnection Facilities. FPL shall apply both of these payments against
5 MM's final billing.

6 **Section 8.01.02 - Final Billing and Payment:** As soon as practicable after FPL closes out
7 its construction project, FPL shall provide MM an invoice for all actual costs and expenses
8 incurred by FPL for designing, engineering, modifying, upgrading, installing and
9 constructing FPL's Facilities pursuant to this Agreement. If the final bill amount for the
10 interconnection costs exceeds the sum of the initial payments received by FPL from MM
11 pursuant to Section 8.01.01, FPL will issue an invoice for the amount of the difference.
12 Such invoice shall be due when rendered and payable on or before the Past Due After Date
13 in immediately available funds, or by other mutually agreeable method of payment. If the
14 invoice is not paid in full on or before the Past Due After Date, it shall be deemed delinquent
15 and shall accrue interest thereafter at an interest rate equal to 110% of the Prime Rate,
16 prorated for the past due period, until fully paid. If the final bill amount for the
17 interconnection costs is less than the sum of the initial payments received by FPL from MM
18 pursuant to Section 8.01.01, FPL will refund MM the amount of the difference in
19 immediately available funds or by other mutually agreeable method of payment.

20 **Section 8.02 - Billing and Payment for Other Expenses:** FPL shall periodically provide MM an
21 invoice for all costs and expenses incurred by FPL for operation, maintenance, modification,
22 improvement or replacement of the Interconnection Facilities pursuant to this Agreement in
23 accordance with FPL's then-current jobbing procedures. In addition, FPL shall provide MM an
24 invoice on a monthly basis for Specified Load and Generation Control Service charges as determined
25 pursuant to Article VII of this Agreement. All such invoices shall be due when rendered and payable
26 on or before the Past Due After Date in immediately available funds, or by other mutually agreeable
27 method of payment. Invoices not paid on or before the Past Due After Date shall be deemed
28 delinquent and shall accrue interest thereafter at an interest rate equal to 110% of the Prime Rate
29 until fully paid.

1 **Section 8.03 - Disputed Bill:** In the event that any portion of any bill is in bona fide dispute,
2 payment of the entire billed amount shall be made when due, but the disputed portion of the bill may
3 be paid under protest. Payments made and designated "Paid under Protest" shall be accompanied
4 by the reason(s) for such protest and, to the extent possible, the amount paid under protest shall be
5 specified. Upon final determination of the correct amount, any refund due MM resulting from the
6 settlement of the dispute shall be payable to MM within fifteen (15) days and shall accrue interest
7 at 110% of the Prime Rate from one day after FPL received such overpayment from MM, unless
8 the dispute is resolved by a settlement between the Parties which provides otherwise.

9 **Section 8.04 - Disconnection of Facilities:** In the event that MM fails to pay to FPL any sum when
10 due, FPL shall have the right, in addition to all other rights and remedies available to FPL under this
11 Agreement and under applicable law, to take all necessary actions to disconnect the MM Generation
12 Facility and the MM Facilities to the extent permitted by law. Pursuant to this Section 8.04, FPL
13 shall give MM at least thirty (30) days' advance written notice of its intention to take action to
14 disconnect the MM Generation Facility and the MM Facilities, and MM shall have such 30-day
15 period in which to pay such sum, including accrued interest thereon.

16 **Section 8.05 - Reimbursement of Costs Imposed on FPL:** MM agrees to reimburse and indemnify
17 and hold FPL harmless and make it whole for any and all local, Florida or federal income tax
18 consequences resulting from FPL's receipt of any sum(s) of money from MM, or for the
19 construction work performed and facilities conveyed pursuant to this Agreement, whether or not
20 determined to be gross revenue, contribution in aid of construction or otherwise, including, without
21 limiting the generality of the foregoing, the payment of interest, penalties or additional tax on any
22 sum(s) or facilities received hereunder. FPL is committed to exercise reasonable best efforts to
23 avoid penalties for late tax payments.

24 **Section 8.06 - Challenges to Bills:** Either Party may challenge the correctness of any bill or billing
25 adjustment pursuant to this Agreement no later than twelve (12) months after the date payment of
26 such bill or billing adjustment is due. If a Party does not challenge the correctness of a bill or billing
27 adjustment within such 12-month period, such bill or billing adjustment shall be binding upon that
28 Party and shall not be subject to challenge. Any such challenge must be in writing. Where it is
29 determined as a result of any such challenge that an adjustment to a bill or a previous billing

1 adjustment is appropriate, such adjustment shall include interest accrued at a rate equal to 110% of
2 the Prime Rate for each applicable month from the time the bill was originally rendered until such
3 month as the billing adjustment is made pursuant to this section.

4 **ARTICLE IX**

5 **OPERATING REPRESENTATIVES**

6 **Section 9.01 - Operating Representatives:** Each Party shall appoint, or cause its designee to
7 appoint, an Operating Representative who shall be the person responsible for the daily operations of
8 that Party, and shall notify, or cause its designee to notify, the other Party of such appointment.
9 Each Party or its designee will also appoint an alternate Operating Representative to act for it in the
10 absence of the primary Operating Representative, and may change such appointment(s) of primary
11 or alternate Operating Representative(s) at any time by similar written notice. The Operating
12 Representatives shall hold meetings at the request of either Party at a time and place agreed by the
13 Parties to review the duties set forth herein or to discuss any other matters within the scope of their
14 authority. The Operating Representatives shall be responsible for effecting such duties as may be
15 required of them, including, but not limited to, the start-up and synchronization of the MM
16 Generation Facility, and any other duties as may be conferred upon them by mutual agreement of
17 FPL and MM. Each Party shall cooperate in providing to the Operating Representatives all
18 information required in the performance of their duties. All decisions and agreements made by the
19 Operating Representatives shall be evidenced in writing.

20 **ARTICLE X**

21 **INSURANCE**

22 **Section 10.01 - Insurance:** MM shall procure, or cause to be procured, a policy or policies of
23 liability insurance on a standard "Insurance Services Office" commercial general liability form for
24 the benefit of FPL, its parent, its subsidiaries or affiliated entities and each of their officers,
25 directors, employees, agents and contractors (hereinafter in this Agreement collectively called the
26 "Company"). Said policy(ies) shall cover all liabilities which might arise under, or in the
27 performance or nonperformance of, this Agreement. At a minimum, said policy(ies) shall contain

1 endorsements providing coverage, including, but not limited to, broad form contractual liability,
2 products liability/completed operations coverage, for the Company. The policy(ies) shall be free of
3 exclusions which exclude coverage for claims against the Company arising from interruption or
4 curtailment of power supply in connection with the installation, operation, maintenance, replacement
5 or removal of any facilities located on MM's side of the Point of Change of Ownership. The
6 Company shall be designated as an additional named insured, and the policy(ies) shall be endorsed
7 to be primary to any insurance which may be maintained by or on behalf of the Company and to any
8 indemnity-related obligation(s) of either Party pursuant to Article XI. The policy(ies) shall be in a
9 minimum limit of One Million Dollars (\$1,000,000) per occurrence, combined single limit, for
10 bodily injury (including death) or property damage; provided, however, in the event that such
11 insurance becomes totally unavailable or the Parties agree that it is only available at unreasonable
12 cost, such unavailability shall not constitute an Event of Default under this Agreement, but FPL and
13 MM shall enter into negotiations to develop substitute protection for the Company which FPL deems
14 adequate. Any premium assessment or deductible shall be for the account of MM and not the
15 Company. The retroactive date(s) of the policy(ies) shall be the effective date of this Agreement or
16 such other date as to protect the interest of the Company. Furthermore, if the policy(ies) is (are)
17 on a "claims made" basis, MM's obligation to provide such coverage shall survive the termination
18 of this Agreement until the expiration of the maximum statutory period of limitations in the State of
19 Florida for actions based in contract or in tort, as such period may be changed from time to time;
20 if coverage is on an "occurrence" basis, such insurance shall be maintained by MM during the entire
21 term of this Agreement. The policy(ies) shall not be cancelled or materially altered without at least
22 thirty (30) days' prior written notice to FPL. All coverage obtained by MM pursuant to this Section
23 10.01 must be reasonably acceptable to FPL. A copy of the policy shall be made available for
24 inspection by FPL within fifteen (15) days of a request therefor.

25 ARTICLE XI

26 INDEMNITY

27 **Section 11.01 - Indemnification:** FPL and MM shall each be responsible for its own facilities.
28 FPL and MM shall each be responsible for ensuring adequate safeguards for other FPL customers,

1 FPL and MM personnel and equipment, and for the protection of its own generating system. FPL
2 and MM, shall each indemnify and save the other harmless from any and all claims, demands, costs,
3 or expense for loss, damage or injury to persons or property caused by, arising out of, or resulting
4 from:

- 5 (i) Any act or omission by a Party or that Party's contractors, agents, servants and
6 employees in connection with the installation, operation or maintenance of that
7 Party's generation, transmission and distribution systems, or the operation thereof in
8 connection with the other Party's system;
- 9 (ii) Any defect in, failure of, or fault related to, a Party's generation, transmission and
10 distribution systems;
- 11 (iii) The negligence of a Party or negligence of that Party's contractors, agents, servants
12 and employees; or
- 13 (iv) Any other event or act that is the result of, or proximately caused by, a Party.

14 **ARTICLE XII**

15 **LIMITATION OF LIABILITY**

16 **Section 12.01 - Limitation of Liability:** In no event shall either Party be liable (in contract or in
17 tort, including negligence, or otherwise) to the other Party or its suppliers or its subcontractors for
18 indirect, incidental or consequential damages resulting from a Party's performance, non-performance
19 or delay in performance of its obligations under this Agreement.

20 **ARTICLE XIII**

21 **FORCE MAJEURE**

22 **Section 13.01 - Force Majeure:** In the event that either Party should be delayed in, or prevented
23 from, performing or carrying out any of the agreements, covenants and obligations to interconnect

1 the MM Generation Facility with FPL's system made by, and imposed by this Agreement upon, said
2 Party, by reason of or through any cause reasonably beyond its control (not attributable to its or its
3 contractors' or suppliers' neglect or lack of due diligence), including, but not limited to, strikes,
4 lockouts or other labor disputes or difficulties, riot, fire, flood, ice, invasion, civil war, hurricanes,
5 insurrection, military or usurped power, action or inaction of any civil or military authority
6 (including courts and governmental or administrative agencies), explosion, act of God or public
7 enemies, then, in each such case or cases, the Party who is unable to perform shall not be liable to
8 the other Party for, or on account of, any loss, damage, injury or expense (including consequential
9 damages and cost of replacement power) resulting from or arising out of any such delay or
10 prevention from performing; provided, however, the Party suffering any such delay or prevention
11 shall use due and, in its judgment, practicable diligence to remove the cause(s) thereof; and provided,
12 further, neither Party shall be required by the foregoing provisions to settle a strike, lockout or other
13 labor dispute affecting it except when, according to its own best judgment, such a settlement seems
14 advisable. Events of Force Majeure affecting MM shall not excuse MM from its obligations under
15 Articles X and XI, or to make payment for any charges payable pursuant to this Agreement. A Party
16 experiencing an event of Force Majeure shall notify the other Party thereof as soon as practicable.

17 ARTICLE XIV

18 MISCELLANEOUS

19 **Section 14.01 - Applicable State Law:** This Agreement and the rights, obligations and remedies
20 hereunder shall be interpreted and governed in all respects by the laws of the State of Florida.
21 Should any provision of this Agreement be determined to be illegal or in conflict with any law, the
22 validity of the remaining provisions shall not be impaired.

23 **Section 14.02 - FPSC Approval of Agreement:** The Parties agree that this Agreement will be
24 promptly filed with the FPSC for its approval so as to fully permit the terms of this negotiated
25 Agreement to govern the Parties' relationship with respect to the matters set forth herein. Upon
26 filing by FPL, MM shall support the filing and approval of this Agreement without modification or
27 condition, and MM shall cooperate with FPL and provide any information reasonably required by
28 FPL to comply with applicable filing requirements, and the Parties shall not lend support to any party

1 who opposes this Agreement before the FPSC. In the event that the FPSC fails to approve this
2 Agreement in its entirety without modification or condition, the Parties agree to enter into good faith
3 negotiations, as soon as practical, to amend or supersede this Agreement as and if necessary. If the
4 Parties are unable to reach agreement after a two-week period, which period shall commence the day
5 after the FPSC hearing at which the FPSC initially votes to disapprove this Agreement, in whole or
6 part, or approves it with modification or condition, FPL shall (i) have the right to cease, until such
7 negotiations are concluded, any and all activities related to the design, engineering and construction
8 of its Interconnection Facilities pursuant to this Agreement, and (ii) receive a day-for-day extension,
9 until such negotiations are concluded, of the six-month period specified in Section 3.03.

10 **Section 14.03 - Default:** If either Party shall default in any of its material obligations under this
11 Agreement and such Party fails to cure the default within thirty (30) days after receipt of notice
12 thereof is given in writing by the other Party, the Party not in default may terminate this Agreement
13 by written notice thereof to the Party in default, effective thirty (30) days after such notice of
14 termination is given. If such default is remedied during the thirty-day period following notice of
15 termination, this Agreement shall not be terminated due to such default; provided, however, if it is
16 not feasible to correct such default within thirty (30) days after written notice of such default has
17 been delivered to the defaulting Party by the other, but it is and remains feasible to correct such
18 default within one year after such notice, it shall not constitute grounds for termination hereunder
19 until the earliest feasible date within such one-year period when a cure could be effected so long as
20 (i) corrective action by the defaulting Party is instituted within ten days of the date of such notice,
21 (ii) such corrective action is diligently pursued, (iii) the defaulting Party provides to the other Party
22 monthly written reports as to the nature and progress of such corrective action, and (iv) such default
23 is cured by the earliest feasible date within such one-year period.

24 **Section 14.04 - Responsibility for the MM Generation Facility and the MM Facilities:** In no
25 event shall any FPL statement, representation or lack thereof, either express or implied, relieve MM
26 of its exclusive responsibility for the MM Generation Facility and the MM Facilities. Without
27 limiting the generality of the foregoing, any FPL inspection of the MM Generation Facility and/or
28 the MM Facilities shall not be construed as confirming or endorsing its (their) design or its (their)
29 operating or maintenance procedures, nor as a warranty or guarantee as to the safety, reliability or

1 durability of either the MM Generation Facility equipment or the MM Facilities. FPL's inspection,
2 acceptance or its failure to inspect shall not be deemed an endorsement of any equipment or
3 procedure related to the MM Generation Facility or the MM Facilities, nor shall such inspection,
4 acceptance or failure to inspect affect MM's liability to FPL for damages suffered by FPL or
5 otherwise recoverable by FPL.

6 **Section 14.05 - Waivers:** Any waiver at any time by either Party hereto of its rights with respect
7 to the other Party, or with respect to any matter arising in connection with this Agreement, shall not
8 be considered a waiver with respect to any subsequent default or matter.

9 **Section 14.06 - Successors and Assigns:** This Agreement shall inure to the benefit of, and shall
10 be binding upon, the Parties hereto and their respective successors and assigns; provided, however,
11 this Agreement shall not be assignable or transferable in whole or in part by either Party without the
12 written consent of the other Party, which consent(s) shall not be unreasonably withheld, except that
13 such written consent(s) shall not be required (i) in the case of an assignment or transfer to a
14 successor in the operation of the assignor's or transferor's properties by reason of a merger,
15 consolidation, sale or foreclosure, where substantially all such properties are acquired by such
16 successor, or (ii) in the case of an assignment or transfer of all or part of the assignor's or
17 transferor's properties or interests to a wholly-owned subsidiary of the assignor or transferor or to
18 another company in the same holding company as the assignor or transferor.

19 **Section 14.07 - Effect of Section Headings:** Article and Section headings appearing in this
20 Agreement are inserted for convenience of reference only and shall in no way be construed to be
21 interpretations of the text of this Agreement.

22 **Section 14.08 - Exhibits:** As used throughout this Agreement, the term "Agreement" shall include
23 any and all Exhibits hereto, as such Exhibits may be amended from time to time.

24 **Section 14.09 - Relationship of the Parties:** The Parties are independent contractors. Nothing
25 contained in this Agreement shall be construed to create an association, joint venture, partnership
26 or any other type of business entity between or among FPL, MM and/or any other party.

27 **Section 14.10 - No Dedication of the System:** Any undertaking by either Party to the other Party
28 under any provision(s) of this Agreement shall not constitute the dedication of the system, or any

1 portion thereof, of either Party to the public or to the other Party, and it is understood and agreed
2 that any such undertaking by either of the Parties shall cease upon termination of this Agreement.

3 **Section 14.11 - Notices:** Any notice contemplated by this Agreement shall be made in writing and
4 shall be delivered either in person, by prepaid telegram, by telex or facsimile transmission, by
5 deposit in the United States mail, first class, postage prepaid, or by prepaid overnight courier, as
6 specified below:

7 In the case of FPL:

8 Florida Power & Light Company
9 Attention: Manager, Transmission Services Department
10 9250 West Flagler Street
11 Miami, Florida 33174

12 In the case of MM:

13 Minnesota Methane LLC
14 Attention: Operations Manager
15 901 West 94th Street
16 Minneapolis, MN 55420

17 Other person(s) may be designated by FPL or MM. Any Party's designation of the person(s) to be
18 notified or the address(es) of such person(s) may be changed by such Party at any time, or from time
19 to time, by similar notice.

20 **Section 14.12 - Complete Agreement:** This Agreement is intended as the exclusive, integrated
21 statement of the agreement between the Parties. This Agreement shall not be amended or modified,
22 and no waiver of any provision hereof shall be effective, unless set forth in a written instrument
23 executed by the Parties.

24 **Section 14.13 - Execution of Counterparts:** This Agreement may be executed in counterparts, each
25 of which shall be deemed an original, but all of which shall constitute one and the same Agreement.

26 (The next page is the signature page)

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**INTERCONNECTION AGREEMENT
BETWEEN
FLORIDA POWER & LIGHT COMPANY
AND**

MM TOMOKA FARMS LLC

7
8

EXHIBIT B

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10

ESTIMATE OF INTERCONNECTION FACILITIES TO BE PROVIDED BY FPL

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The following major equipment and components of Interconnection Facilities are included in the estimate of costs based on information provided by MM:

- 1 distribution fault interrupter and enclosure
- 1 revenue metering cabinet and solid state data recorder (SSDR)
- Metering CT, PT and cabinet
- Relay CT, PT and cabinet
- W/vars transducers and cabinet
- 1 interconnection relay cabinet containing:
 - 1 Beckwith relay M-420
 - 1 Beckwith relay M-3430
 - Miscellaneous voltage relays
 - Auxiliary relays and timers
- 2 transmitter/receivers and associated programmable logic controller (PLC)
- Phone circuits

1 INTERCONNECTION AGREEMENT
2 BETWEEN
3 FLORIDA POWER & LIGHT COMPANY
4 AND
5 MM TOMOKA FARMS LLC

6 EXHIBIT D

7 CONTROL SERVICE DAILY DEMAND CHARGE RATE

8	<u>Component</u>	<u>Value</u>	<u>Source</u>
9	Production and Transmission Demand		
10	Revenue Requirements	\$836,851,473	FPSC Docket No. 830465-EI*
11	Retail 12 CP kW at the meter	8,714,833	FPSC Docket No. 830465-EI
12	Annual Production and Transmission Costs		
13	per CP kW	\$96.03	Revenue Requirements/12 CP
14	System Demand Loss Factor	1.09898624	FPSC Docket No. 830465-EI
15	Primary Demand Loss Factor	1.0740109	FPSC Docket No. 830465-EI
16	Adjustment for Primary Losses	.97727	Primary Loss Factor/System Loss Factor
17	Control Service Daily Demand Charge Rate	\$0.26	(Annual Costs per CP*Loss
18	per kW-day		Adjustment)/365

19 In addition to the above charges, applicable taxes and franchise fees shall apply, as set forth in
20 the Tax Adjustment Clause and Franchise Fee Clause in FPL's Electric Tariff.

21 * Docket No. 830456-EI was FPL's last rate increase case before the Florida Public Service
22 Commission; Order No. 13537 was issued on July 24, 1984.