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Exhibit B

Redacted Documents

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CTR \_\_\_\_\_

ECR 1

GCL 1

OPC \_\_\_\_\_

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DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

STATE OF FLORIDA )  
 )  
PALM BEACH COUNTY )

**AFFIDAVIT OF GERARD YUPP**

**BEFORE ME**, the undersigned authority, personally appeared Gerard Yupp who, being first duly sworn, deposes and says:

1. My name is Gerard Yupp. I am currently employed by Florida Power & Light Company (“FPL”) as Director of Wholesale Operations in the Energy Marketing and Trading Division. I have personal knowledge of the matters stated in this affidavit.

2. I graduated from Drexel University with a Bachelor of Science Degree in Electrical Engineering in 1989. I joined the Protection and Control Department of FPL in 1989 as a Field Engineer and worked in the area of relay engineering. While employed by FPL, I earned a Masters of Business Administration degree from Florida Atlantic University in 1994. In May of 1995, I joined Cytec Industries as a plant electrical engineer where I worked until October of 1996. At that time, I rejoined FPL as a real-time power trader in the Energy Marketing and Trading Division. Since rejoining FPL in 1996, I have moved from real-time power trading to short-term power trading, power trading manager and assumed my current position in December 2004.

3. I am responsible for managing the daily activities of the Wholesale Operations Group. Daily activities include natural gas and fuel oil procurement, fuel allocation and fuel burn management for FPL’s oil and/or natural gas burning plants, coordination of plant outages with wholesale power needs, real-time power trading, short-term power trading, transmission procurement and scheduling. Longer-term initiatives include fuel planning and evaluating opportunities within the wholesale power markets based on forward market conditions, FPL’s outage schedule, fuel prices and transmission availability.

4. FPL depends upon natural gas for a substantial portion of the electric energy it generates each year. For example, slightly over 50% of FPL’s 2005 total generated MWh were produced with natural gas. Unlike coal, oil and nuclear fuel, it is impractical to store significant quantities of natural gas at the generating facilities where it is burned. This means that, in the absence of off-site storage arrangements, FPL must depend on a constant supply of natural gas into the pipelines that deliver it to FPL. Any disruptions of those sources of supply by hurricanes or other events can result in nearly immediate and quite substantial reductions in the amount of natural gas available for FPL’s gas-fired generating facilities.

5. MoBay Gas Storage Hub, owned and operated by Falcon Gas Storage, Inc ([www.falcongassstorage.com](http://www.falcongassstorage.com)) is a HDMC (high-deliverability, multi-cycle) reservoir gas storage facility of up to 50+ Bcf of storage capacity in compartmentalized high-quality gas reservoirs. Set for phased development starting with Phase I working gas capacity of 12 Bcf and up to 50+ Bcf of working gas capacity available (Phase II) with maximum injection/withdrawal capabilities of 1.2 Bcfd+ each which will be interconnected to four different interstate pipelines: Florida Gas Transmission (FGT) Zone 3, Gulfstream Natural Gas (Gulfstream), Gulf South Pipeline (Gulf South) Zone 4, and Transcontinental Gas Pipeline (Transco) Station 85 / Zone 4. When fully developed, MoBay will be the largest, most southeasterly underground natural gas storage facility in the United States. MoBay’s primary storage facilities (such as compression, controls, pipeline interconnections and meter stations) will be located

onshore in Coden, Alabama next to Gulf Stream's main compression station at the confluence of major market and supply area pipeline systems and processing plants serving natural gas and electric utilities in the Southeast and Northeast markets. It will be the only proposed HDMC storage facility of any kind capable of directly connecting with the Gulfstream pipeline system serving the Florida market. HDMC (high-deliverability, multi-cycle) reservoir storage provides shorter and lower development costs per unit than other gas storage facilities. In turn this provides operational service at far less cost than other facilities such as salt caverns. HDMC reservoir storage provides high Peak Day deliverability, very large storage volumes, allows inventory to be cycled from 1-6 times annually while virtually eliminating the kinds of catastrophic failure risks that have plagued Salt Cavern storage on a number of different occasions (e.g., Moss Bluff). Maintenance and overall site development for HDMC reservoir storage also provides far less environmental impact in development and operations. HDMC reservoir storage is conducted in depleted oil and gas reservoirs that are known geologic structures, having held oil and gas in well formed and identified geologic structures for millions of years, giving confidence in the safe, effective, active and long term storage of natural gas, unlike man-made caverns that have been known to leak and/or experience catastrophic failures, including fires and explosion. (See Attachment 1).

6. The Gas Storage Project will substantially increase FPL's ability to hedge the physical supply of natural gas, resulting in a significant increase in system reliability and a reduction in natural gas price volatility. The location of the Gas Storage Facility is close to the growing natural gas loads in the Florida markets and can provide benefits to all natural gas consumers in Florida. Additionally, this location at the termini of the Gulfstream pipeline and FGT Mobile Bay pipelines will allow FPL to realize the maximum benefit of its existing firm transportation arrangements and avoid "pancaked" pipeline transportation fees.

7. FPL will be an "anchor tenant" of the Gas Storage Facility. It will be entitled to store up to 6 million dekatherms at the Gas Storage Facility, which represents 50% of the facility's Phase I capacity. Six million dekatherms corresponds to approximately five days of FPL's typical natural gas consumption. Thus, the Gas Storage Project will substantially improve FPL's ability to withstand disruptions to the Gulf of Mexico production facilities, such as occurred in the 2005 hurricane season, without having to reduce the output of its gas-fired generating facilities. The Destin/Mobile Bay area of the Gulf of Mexico is highly susceptible to production shut-ins due to the threat or impact of extreme weather events. Approximately 48% of FPL's firm gas transportation capacity, on FGT and Gulfstream, is tied to off-shore production in the Destin/Mobile Bay area. Production shut-ins in this area have a significant impact on the availability of natural gas to supply both the FGT and Gulfstream pipelines. To the extent that production is curtailed in the area, FPL must find alternate means to supply natural gas into the FGT and Gulfstream pipelines. FPL's options for obtaining natural gas supply for Gulfstream after production shut-ins are currently very limited. The Gas Storage Project will provide FPL with an alternate gas supply source directly connected to the Gulfstream pipeline. FPL will also be able to deliver gas into FGT from the Gas Storage Facility. Natural gas supplies from this area are also subject to high price volatility, not only during extreme events, but also during high demand periods due to location and operational reasons. Therefore, the ability to store a substantial volume of natural gas will help reduce FPL's vulnerability to natural gas supply curtailments in the Destin/Mobile Bay area and help limit FPL's exposure to the volatility inherent in relying on spot market gas or alternate fuels during severe weather events and periods of high demand. The Gas Storage Facility will also enhance FPL's ability to respond to day-to-day and intra-day changes to its natural gas requirements.

1 8. In order to secure a substantial participation in the Gas Storage Facility and to  
2 help ensure the facility's financial viability, FPL entered into a Firm Storage Service Precedent  
3 Agreement (the "Precedent Agreement") with MoBay on April 1, 2006. The Gas Storage  
4 Facility is scheduled to go into service between December 31, 2007 and July 1, 2008. FPL is  
5 entitled under the Precedent Agreement to terminate its involvement anytime after December 31,  
6 2007 if the Gas Storage Facility is not yet in service and MoBay is not exercising commercially  
7 reasonable efforts to complete it. [REDACTED]

8 [REDACTED]  
9 A copy of the Precedent Agreement is provided as Attachment 2.  
10

11 9. As presently contemplated, the Gas Storage Project will entail the following  
12 financial responsibilities for FPL:

13 a. A monthly storage reservation charge of [REDACTED] per dekatherm of the maximum  
14 storage quantity ("MSQ"). At FPL's expected MSQ of 6 million dekatherms, this would  
15 be [REDACTED] per month.  
16

17 b. In order to maintain sufficient pressure in the Gas Storage Facility to permit  
18 natural gas withdrawals as needed, FPL will either have to provide or lease from MoBay  
19 an amount of gas equal to 50% of its MSQ (this is referred to as "Base Gas" and would  
20 amount to 3 million dekatherms for FPL). Based on MoBay's pricing information, FPL  
21 expects that providing its own Base Gas will be less expensive than leasing it from  
22 MoBay for the term of the agreement.  
23

24 c. A charge of 1% fuel retention for each dekatherm of natural gas that is injected  
25 into and 1% fuel retention for each dekatherm withdrawn from the Gas Storage Facility.  
26 Fuel retention is the percentage of each injected or withdrawn volume of fuel that the  
27 Gas Storage Facility retains to compensate for fuel used in the compression process. In  
28 addition to fuel retention, a commodity charge of [REDACTED] per dekatherm will be applied  
29 to all injections and withdrawals of natural gas. This commodity charge compensates the  
30 Gas Storage Facility for operation and maintenance expenses.  
31

32 d. A monthly inventory insurance charge of \$0.0125 per dekatherm, applied to the  
33 total of a tenant's MSQ and Base Gas. For FPL, this would be 9 million dekatherms  
34 times \$0.0125, or \$112,500 per month. This insurance protects against the risk of fire,  
35 sabotage and other risks that could result in losing all or part of the volume of the stored  
36 gas (for which tenants retain the risk of loss). FPL has the option to obtain this insurance  
37 itself rather than paying the monthly inventory insurance charge if deemed beneficial to  
38 FPL's customers.  
39

40 e. Carrying costs associated with the substantial inventory balance that FPL will  
41 target for maintaining in the Gas Storage Project in order to provide the reliability and  
42 volatility-reduction benefits described above.  
43  
44

45 10. Attachment 3 is a table showing that the storage costs under the Gas Storage  
46 Project are favorable in comparison to FPL's existing storage arrangements. [REDACTED]  
47 [REDACTED]  
48 [REDACTED]

11. None of the costs of the Gas Storage Project are currently recovered through FPL's base rate charges or any other recovery mechanism. FPL currently recovers the costs of natural gas storage arrangements through the Fuel Clause, as part of its gas transportation charges. Attachment 4 is MFR B-18 for the Test Year 2006 showing that natural gas inventory was not included in FPL's MFR filing in Docket No. 050045-EI and, therefore, the carrying costs associated with natural gas inventory is not included in FPL's base rate charges.

12. Affiant says nothing further.

Gerard J Yupp  
Gerard Yupp

**SWORN TO AND SUBSCRIBED** before me this 27 day of April 2006, by Gerard Yupp, who is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification and who did take an oath.

Debra Ann Dominguez  
Notary Public, State of Florida

My Commission Expires: April 20, 2008



Debra Ann Dominguez  
Commission # DD312184  
Expires: April 20, 2008  
Aron Notary 1-800-350-5161

**FIRM STORAGE SERVICE PRECEDENT AGREEMENT**

This Firm Storage Service Precedent Agreement ("Precedent Agreement") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by and between **MoBay Storage Hub, Inc.** ("Owner"), a Delaware Corporation, and Florida Power & Light Company, a corporation formed under the laws of Florida ("Shipper"). Owner and Shipper are referred to herein individually as a "Party" and collectively "Parties".

WITNESSETH:

WHEREAS, Owner proposes to construct, own, and operate a subsurface natural gas storage facility and appurtenant facilities in Mobile, Alabama ("MoBay Storage Project") and to engage in the storage of natural gas in interstate commerce subject to the jurisdiction of the Federal Energy Regulatory Commission ("Commission" or "FERC"); and

WHEREAS, Shipper desires Owner to store Shipper's natural gas on a firm basis in the MoBay Storage Project; and

WHEREAS, subject to the terms and conditions set forth in this Precedent Agreement, Owner is willing to endeavor to construct, install or cause to be constructed or installed the necessary facilities and to provide the firm storage service as described in this Precedent Agreement;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, and intending to be legally bound, Owner and Shipper stipulate and agree as follows:

1. Governmental Authorizations. Subject to the terms and conditions of this Precedent Agreement, Owner shall use commercially reasonable efforts to obtain from all governmental and regulatory authorities having competent jurisdiction over the MoBay Storage Project, including the Commission, the authorizations and/or exemptions ("Governmental

Authorizations”) that Owner determines are necessary: (i) to construct, install, own, maintain, and operate (or cause to be constructed, installed, owned, maintained, and operated) the facilities necessary to render the firm service as contemplated in this Precedent Agreement; (ii) to provide firm storage services at market-based rates; and (iii) to perform its obligations under the Firm Storage Service Agreement (“Service Agreement”) attached hereto as Exhibit A and made a part hereof. Owner shall file and prosecute any and all applications for such Governmental Authorizations, any supplements and amendments thereto, and, if necessary, any court review, in such manner as it deems to be in its best interest. Shipper expressly agrees to support and cooperate, and to not oppose, obstruct, or otherwise interfere with, in any manner whatsoever, the efforts of Owner to obtain all Governmental Authorizations.

2. Execution of Service Agreement. Contemporaneously with the execution and delivery of this Precedent Agreement, Shipper and Owner have executed the Service Agreement, which provides for a firm storage reservation capacity of 6,000,000 Dth (“Initial Capacity”). Owner shall provide, and Shipper shall take and pay for, service pursuant to the Service Agreement as of the in-service date of the MoBay Storage Project established pursuant to Paragraph 4; provided, however, that the Service Agreement shall be terminated prior to such date if this Agreement is terminated pursuant to subparagraphs (b), (c), or (d) of Paragraph 6 or subparagraph (b) of Paragraph 4 and in such case neither Shipper nor Owner shall have any obligations with respect to the Service Agreement.

3. Design and Implementation of Facilities. Owner will undertake the design of facilities and any other preparatory actions necessary for Owner to complete and file its certificate application(s) with the Commission. Upon satisfaction or waiver of the conditions precedent set forth in subparagraphs (a), (b), (c), (d), (e), and (g) of Paragraph 5, Owner shall proceed with the

necessary final design of facilities, acquisition of materials, supplies, properties, rights-of-way and any other necessary preparations to implement the firm service under the Service Agreement as contemplated in this Precedent Agreement. Prior to the satisfaction or waiver of the associated conditions precedent, Owner shall have the right, but not the obligation, to proceed with the foregoing activities. If Owner elects to proceed with some of the foregoing activities prior to satisfaction of the associated condition precedent(s), such actions shall not constitute waiver of such condition precedent(s) absent written notice to that effect from Owner.

4. Construction of Facilities and Commencement of Service; Expansions.

(a) Upon satisfaction or waiver of the conditions precedent set forth in subparagraphs (a), (b), (c), (d), (e), and (g) of Paragraph 5, Owner shall use commercially reasonable efforts to construct the authorized facilities necessary to implement the firm service contemplated in this Precedent Agreement and the Service Agreement on or about December 31, 2007 ("Proposed In-Service Date"); provided, however, that in the event Owner's failure to complete construction of its facilities and commence the storage services contemplated hereunder is due to Owner's Force Majeure, the Proposed In-Service Date shall be extended for each day of force majeure up to a maximum of one hundred eighty (180) days. "Owner's Force Majeure" shall mean any cause whether of the kind enumerated herein or otherwise, not reasonably within the control of Owner, that renders Owner unable, wholly or in part, to construct the MoBay Storage Project. Owner's Force Majeure shall include, but not be limited to, acts of God; strikes, lockouts and industrial disputes or disturbances; inability to secure or delays in obtaining material permits or material Governmental Authorizations, material easements or rights-of-way, impossibility to secure labor, materials, supplies or inability to secure materials by reason of allocations promulgated by authorized governmental agencies; arrests and restraints of governments and people;



interruptions by government or court orders; present and future valid orders, decisions or rulings of any government or regulatory entity having proper jurisdiction; acts of the public enemy; vandalism; wars; riots; civil disturbances; blockades; insurrection; epidemics; landslides; lightening; tornadoes; hurricanes; earthquakes; fires; storms; floods; washouts; inclement weather which necessitates extraordinary measures to maintain operations; explosions; breakage, accidents and/or maintenance to plant facilities including machinery, lines of pipe, accidents and/or unscheduled maintenance of wells or subsurface storage caverns or reservoirs; testing (as required by governmental authority or as deemed necessary by Owner for the safe operation of the facilities required to perform the services hereunder); and the making of repairs or alterations to pipelines, storage, caverns or reservoirs and plant facilities including pipeline repairs of transporter(s) with which the MoBay Storage Project interconnects. It is understood and agreed that the settlement of strikes or lockouts shall be entirely within the discretion of Owner, and that Owner shall not be required to settle strikes or lockouts by acceding to the demands of opposing party when such course is inadvisable in the discretion of Owner. If, notwithstanding the commercially reasonable efforts of Owner, Owner is unable to commence the firm service for Shipper as contemplated herein by the Proposed In-Service Date, Owner will continue to proceed with commercially reasonable efforts to complete arrangements for such firm service and commence the firm service for Shipper at the earliest practicable date thereafter. Owner will not be liable nor will this Precedent Agreement or the Service Agreement be subject to cancellation (except as specifically provided pursuant to Paragraph 6) if Owner is unable to complete the construction of such authorized and necessary facilities and commence the firm service contemplated herein by the Proposed In-Service Date, except as provided in Paragraph 4(b).

1           (b) If Owner is unable to complete construction of its facilities and commence the  
2 storage services contemplated hereunder by the Proposed In-Service Date (as such date may be  
3 extended pursuant to Paragraph 4(a)), then Shipper shall have the right after the Proposed In-  
4 Service Date, to give Owner notice of cancellation of this Precedent Agreement and the firm  
5 storage agreement to be effective upon thirty (30) days from the date of written notice of  
6 cancellation to Owner; provided, however, that if and for so long as Owner continues to exercise  
7 commercially reasonable efforts to construct its facilities and commence the storage services,  
8 Shipper shall not be entitled to exercise its termination right until one hundred eighty (180) days  
9 after the Proposed In-Service Date.

10 5. Conditions Precedent. The Parties' rights and obligations under Paragraph 4(a) are  
11 expressly made subject to satisfaction, or waiver by Owner, of the conditions precedent (a), (b),  
12 and (c) below and the satisfaction, or waiver by Shipper, of the conditions precedent (d), (e), (f),  
13 and (g) below:

14           (a) receipt in a form acceptable to Owner in its sole discretion by [REDACTED] of  
15 the Governmental Authorizations, except for those authorizations typically received after the  
16 commencement of construction;

17           (b) procurement by [REDACTED] of all necessary rights-of-way easements or permits  
18 in form and substance acceptable to Owner in its sole discretion;

19           (c) receipt by Owner of approval by its Board of Directors no later than ten (10) days  
20 of the satisfaction or waiver of condition precedent 5(d) below, from its Management Committee  
21 or similar governing body to proceed with this Precedent Agreement and the Service Agreement;

1 (d) receipt by Shipper of approval no later than ten (10) days of the execution of this  
2 Precedent Agreement, from its Management Committee or similar governing body to proceed  
3 with this Precedent Agreement and the Service Agreement;

4 (e) submission by Owner to the Federal Energy Regulatory Commission of an  
5 application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience  
6 and necessity to construct, own, and operate the MoBay Storage Project by [REDACTED];

7 (f) commencement by Owner of bona fide construction of the MoBay Storage  
8 Project no later than [REDACTED]. For purposes of this Precedent Agreement, Owner shall be  
9 deemed to have commenced bona fide construction of the MoBay Storage Project facilities when  
10 Owner has awarded the construction contract(s) to its general construction contractor(s) and such  
11 contractor(s) certifies to Shipper in writing that it has been released to commence construction of  
12 the MoBay Storage Project facilities; and

13 (g) receipt in a form acceptable to Shipper in its sole discretion by [REDACTED] of  
14 approval from the Florida Public Service Commission for Shipper to recover through the fuel  
15 cost recovery clause costs Shipper incurs pursuant to the obligations set forth in this Precedent  
16 Agreement and the Service Agreement; provided, however, that Shipper may, upon written  
17 notice provided to Owner no later than [REDACTED] extend the deadline for the satisfaction of  
18 this condition precedent 5(g) by up to sixty (60) days; provided further that the deadlines  
19 applicable to the conditions precedent 5(a), 5(b), 5(e), and 5(f) above shall be extended by the  
20 same number of days that Shipper elects to extend the deadline for this condition precedent 5(g).

21 6. Term and Termination.

22 (a) This Precedent Agreement shall become effective on the date set forth above and,  
23 unless terminated pursuant to Paragraph 4(b) or subparagraphs (b), (c), or (d) of this Paragraph 6,

will terminate by its express terms on the date of commencement of service under the Service Agreement, as provided for in Paragraph 4(a), and thereafter Owner's and Shipper's rights and obligations related to the storage transaction contemplated herein shall be determined pursuant to the terms and conditions of such Service Agreement and Owner's FERC Gas Tariff, as effective from time to time, except that Shipper shall be required to comply with the creditworthiness provisions of Paragraph 7 for the term of the Service Agreement.

(b) At any time prior to the commencement of bona fide construction, Owner may terminate this Precedent Agreement at any time upon fifteen (15) days' prior written notice to Shipper if Owner, in its sole discretion, determines for any reason that the MoBay Storage Project contemplated herein is no longer economically viable or if substantially all of the other precedent agreements, service agreements or other contractual arrangements for the firm service to be made available by the MoBay Storage Project are terminated, other than by reason of commencement of service.

(c) Failure of Conditions Precedent.

(i) If a condition precedent set forth in Paragraphs 5(a) through (c) has not been fully satisfied, or waived by Owner pursuant to the terms of Paragraph 5, by the applicable date specified therein or if a condition precedent set forth in Paragraphs 5(d) and (g) has not been fully satisfied, or waived by Shipper pursuant to the terms of Paragraph 5 by the applicable date specified therein, then Owner may thereafter terminate this Precedent Agreement by giving ninety (90) days' prior written notice of its intention to terminate to Shipper; provided, however, if the condition precedent is satisfied, or waived by Owner or Shipper, as applicable, pursuant to the terms of Paragraph 5, within such ninety (90)-day notice period, then termination will not be

effective; provided further that the foregoing cure period shall not apply to the condition precedent set for in Paragraph 5(g).

(ii) If a condition precedent set forth in Paragraphs 5(d) through (g) has not been fully satisfied by Owner or Shipper, as applicable, or waived by Shipper pursuant to the terms of Paragraph 5, by the applicable date specified therein, then Shipper may thereafter terminate this Precedent Agreement by giving forty-five (45) days' prior written notice of its intention to terminate to Owner, such notice to be given no later than ninety (90) days after the applicable date for satisfaction of the condition precedent; provided, however, if the condition precedent is satisfied, or waived by Shipper, pursuant to the terms of Paragraph 5, within such forty-five (45)-day notice period, then termination will not be effective; provided further that the foregoing cure period shall not apply to the condition precedent set for in Paragraph 5(g).

(d) If Shipper (i) fails to perform, in whole or in part, its material duties and obligations hereunder or (ii) interferes with or obstructs the receipt by Owner of the Governmental Authorizations contemplated by this Precedent Agreement as requested by Owner and Owner as a result of such interference or obstruction by Shipper, does not receive the Governmental Authorizations in form and substance as requested by Owner or does not receive such authorizations and/or exemptions at all, then Owner may, in addition to any other remedies Owner may have at law or equity, thereafter terminate this Precedent Agreement by giving sixty (60) days' prior written notice of its intention to terminate to Shipper; provided, however, if the Shipper cures its failure to perform under clause (i) above, within such sixty (60)-day notice period, then termination will not be effective.

(e) Owner agrees that the term of the Service Agreement shall be for fifteen (15) years ("Primary Term").

7. Creditworthiness.

(a) Applicability. Shipper covenants that, beginning on the commencement of service pursuant to the Service Agreement and for so long as the Service Agreement remains in effect Shipper shall, comply with the creditworthiness requirements set forth in Owner's FERC Gas Tariff, as amended by this Paragraph 8. The provisions of this Paragraph 8 shall survive the termination of this Precedent Agreement.

(b) Alternative Forms of Security. The following provisions shall replace subsections (i), (ii) and (iii) of Section 2.4(c) of the General Terms and Conditions of Owner's FERC Gas Tariff:

(i) Shipper may post and maintain in effect a standby, irrevocable Letter of Credit (aa) issued by a financial institution with combined capital and surplus of at least \$500,000,000 that is rated at least A by Standard & Poor's Corporation and A2 by Moody's Investor Services, Inc., (bb) that provides for partial drawdowns, and (cc) in form and substance satisfactory to Owner. A form of letter of credit is available from Owner. The amount of the Letter of Credit shall be equal to no less than the value of applicable transportation charges for Shipper's Maximum Storage Quantity (as defined in the Service Agreement) for the lesser of (i) twenty-four months or (ii) the remaining term of the Service Agreement. If Owner draws funds under the Letter of Credit, Shipper shall replenish the Letter of Credit to the required value specified herein no later than five (5) Business Days after such drawing. As Owner recovers the cost of such facilities through its rates, the security

required shall be reduced accordingly until the amount is reduced to the value of three (3) months' worth of applicable storage charges.

(ii) Shipper may provide a guaranty of all of Shipper's obligations under the Service Agreement granted to Owner by the Shipper's parent, affiliate or third party with a rating of at least the Minimum Acceptable Credit Rating, which guarantee shall be in form and substance acceptable to Owner. A form of guaranty is available from Owner.

(iii) Shipper may prepay for service via cleared check or wire transfer. The amount of the prepayment shall be equal to no less than the value of applicable transportation charges for Shipper's Maximum Storage Quantity (as defined in the Service Agreement) for the lesser of (i) twenty-four months or (ii) the remaining term of the Service Agreement. Prepayment amounts shall be deposited in an interest-bearing escrow account if such an account has been established by Shipper and Owner reasonably determines that such account is satisfactory. The costs of establishing and maintaining the escrow account shall be borne by Shipper. The escrow bank must be acceptable to Owner. The escrow agreement shall provide for prepayment amounts to be applied against Shipper's obligation under its service agreement(s) with Owner and shall grant Owner a security interest in such amounts as an assurance of future performance. The escrow agreement shall specify the permitted investments of escrowed funds so as to protect principal, and shall include only such investment options as corporations typically use for short-term deposit of their funds. If Owner is required to draw down the funds in escrow, Shipper shall replenish such funds no later than five (5) business days.

8. Assignment.

(a) Prior to the commencement of service pursuant to the Service Agreement, neither Shipper nor Owner may assign any of its rights or obligations under this Precedent Agreement without the prior written consent of the other Party hereto, which consent may be withheld in the other Party's sole discretion; provided, however, that Shipper may assign its rights and obligations under this Precedent Agreement if such assignment is mandated by a valid order of the Florida Public Service Commission and provided further that no such assignment by Shipper shall release Shipper from its obligations hereunder.

(b) Notwithstanding Section 9(a), Owner may, from time to time, without the consent of Shipper, assign this Agreement and the Service Agreement to a lender for collateral security purposes in connection with any financing or the refinancing of the Facility. Shipper agrees to cooperate within reason with the financial institutions that provide financing and/or insurance for the ownership and operation of the Facility (each a "Lender/Insurer") to the extent reasonably required by any such Lender/Insurer in order to underwrite, insure, or re-insure the Project, the operations and the liabilities associated therewith or to protect and give effect to the security interests granted to or for the benefit of the lenders to secure the performance of the obligations of Owner under the agreements and documents executed and delivered in connection with any such financing. Shipper agrees to execute reasonable and customary consenting documents. The provisions of this Paragraph 9(b) shall survive the termination of this Precedent Agreement.

(c) From and after the commencement of service under the Service Agreement, the provisions of the Service Agreement and Owner's FERC Gas Tariff shall govern the assignment of Shipper's rights and obligations under the Service Agreement and the release of all or any portion of Shipper's capacity under the Service Agreement; provided, however, that in the event



of an assignment of the Service Agreement by Shipper or a permanent release of all or any portion of Shipper's capacity under the Service Agreement, Shipper's assignee or permanent replacement shipper, as the case may be, shall be required to comply with the creditworthiness provisions of Owner's FERC Gas Tariff as modified by Paragraph 8 of this Precedent Agreement for the remaining term of the Service Agreement.

9. Governing Law. This Precedent Agreement shall be governed by, construed, interpreted, and performed in accordance with the laws of the State of New York, without recourse to any laws governing the conflict of laws.

10. Notice. Except as herein otherwise provided, any notice, request, demand, statement, or bill provided for in this Precedent Agreement, or any notice which any Party desires to give to the others, must be in writing and will be considered duly delivered when mailed by registered or certified mail to the other Party's Post Office address set forth below:

Owner: MoBay Gas Storage Hub, Inc.  
1776 Yorktown, Suite 500  
Houston, Texas 77056  
Attn: President  
Fax: (713) 961-2676

Shipper: Florida Power & Light Company  
700 Universe Blvd.  
Juno Beach, FL 33408  
Facsimile: (561) 625-7197  
Telephone: (561) 625-7012  
Attention: EMT - Gas Operations

or at such other address as any Party designates by written notice. Routine communications, including monthly statements, will be considered duly delivered when mailed by either registered, certified, or ordinary mail.

11. Representations and Warranties. Shipper represents and warrants that (a) it is duly organized and validly existing under the laws of the State of Florida and has all requisite legal

1 power and authority to execute this Precedent Agreement and carry out the terms, conditions and  
2 provisions thereof; (b) this Precedent Agreement constitutes the valid, legal and binding  
3 obligation of Shipper, enforceable in accordance with the terms hereof; (c) there are no actions,  
4 suits or proceedings pending or, to Shipper's knowledge, threatened against or affecting Shipper  
5 before any Court or administrative body that might materially adversely affect the ability of  
6 Shipper to meet and carry out its obligations hereunder; and (d) the execution and delivery by  
7 Shipper of this Precedent Agreement has been duly authorized by all requisite corporate action.

8 12. Arbitration. Notwithstanding any provisions to the contrary, the Parties hereto agree that  
9 (i) that any dispute hereunder shall be settled pursuant to arbitration under the rules of the  
10 American Arbitration Association and (ii) that the situs of the arbitration shall be New York,  
11 New York. The provisions of this Paragraph 12 shall survive the termination of this Precedent  
12 Agreement.

13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]

9 14. Insurance. Owner shall use commercially reasonable efforts to maintain insurance on  
10 Shipper's gas to cover all risks including loss, damage and/or destruction whether do to (i) acts  
11 of God, (ii) third party acts or omissions including terrorism or sabotage or (iii) due to any other  
12 cause while under Owner's control and possession unless Shipper elects to have Owner reject  
13 such insurance as provided in this Paragraph 14. Specifically, Owner agrees to use reasonable  
14 efforts to (i) furnish Shipper with proof of insurance coverage, including proof of property  
15 coverage in the amount of the Replacement Cost of the stored gas prior to injection of Shipper's  
16 gas into the MoBay Storage Project and on an annual basis thereafter, (ii) require its insurance  
17 carrier thirty (30) days' prior notice to Shipper of any material change or cancellation of Owners'  
18 insurance coverage, (iii) obtain the agreement of its insurer that such insurance shall be endorsed  
19 to be primary to any insurance which may be maintained by, or on behalf of Shipper, and (iv)  
20 obtain the agreement of its insurer that Shipper shall be named an additional insured and that all  
21 applicable policies shall include waivers of subrogation in favor of Shipper. Replacement Cost  
22 shall not exceed the volume of stored gas multiplied by \$15.00 per Dth. Owner shall have the  
23 right to adjust Shipper's Monthly Inventory Insurance Charge for any increases in insurance

costs required to be paid by Owner pursuant to this Paragraph 14. Shipper may elect to reject the insurance coverage to be provided by Owner at any time prior to December 31, 2006 or at any time thereafter upon written notice to Owner as set out hereinafter. Any election by Shipper to reject insurance on Shipper's gas must be made within fifteen (15) days after Owner provides Shipper with notice of the terms of the coverage, or any renewal thereof, and any such rejection shall be irrevocable. Owner shall have no further obligation to maintain such insurance. Shipper shall have the right to audit Owner's insurance costs related to this Paragraph 14. The provisions of this Paragraph 14 shall survive the termination of this Precedent Agreement.

15. Publicity. All press releases or other public communications of any nature whatsoever relating to the transactions contemplated by this Precedent Agreement, and the method of the release thereof, shall be subject to the prior written consent of Owner and Shipper, which consent shall not be unreasonably withheld, conditioned or delayed by any other Party; provided, however, that nothing herein shall prevent a Party from publishing such press releases or other public communications as such Party may consider necessary in order to satisfy such Party's obligations at law or under the rules of any stock or commodities exchange after consultation with the other Parties as is reasonable under the circumstances.

16. Entire Agreement. This Agreement and the exhibits attached hereto contain the entire agreement between the parties and there are no representations, understandings or agreements, oral or written, between the parties which are not included herein.

17. Miscellaneous.

(a) The Parties hereto expressly agree that the execution of this Precedent Agreement and the performance of the services contemplated in this Precedent Agreement are without

prejudice to any rights or obligations the Parties have to each other under separate and distinct agreements.

(b) This Precedent Agreement may not be modified or amended unless the Parties execute written agreements to that effect.

(c) Except as expressly provided for in this Precedent Agreement, nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person not a Party hereto any rights, remedies or obligations under or by reason of this Precedent Agreement.

(d) The recitals and representations appearing first above are hereby incorporated in and made a part of this Precedent Agreement.

(e) Each and every provision of this Precedent Agreement shall be considered as prepared through the joint efforts of the Parties and shall not be construed against either Party as a result of the preparation or drafting thereof. It is expressly agreed that no consideration shall be given or presumption made on the basis of who drafted this Precedent Agreement or any specific provision hereof.

(f) Unless the context of this Precedent Agreement requires otherwise, (i) the terms "Paragraph" and "subparagraph" refer to Paragraphs and subparagraphs of this Precedent Agreement, (ii) the terms "hereof," "herein," "hereby," and derivative or similar words refer to the entire agreement, including appendices, (iii) the terms "including" and "include" mean "including without limitation by reason of enumeration."

(g) Owner agrees to provide Shipper on an annual basis audited financials of Falcon Gas Storage Company, Inc. ("Falcon"). Falcon's fiscal year ends on March 31<sup>st</sup> and financials should be available each year approximately one hundred twenty (120) days thereafter.

IN WITNESS WHEREOF, the Parties hereto have caused this Precedent Agreement to be duly executed in several counterparts by their duly authorized officers as of the day and year first above written.

**“OWNER”**

**MOBAY STORAGE HUB, INC.**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**“SHIPPER”**

**FLORIDA POWER & LIGHT COMPANY**

By: \_\_\_\_\_  
Printed Name: Terry L. Morrison  
Title: Vice President

**Exhibits**

Exhibit A: Executed Firm Gas Storage Service Agreement

**Exhibit A**  
**Executed Firm Gas Storage Service Agreement**

Service Agreement No. \_\_\_\_\_

**SERVICE AGREEMENT  
(APPLICABLE TO FSS RATE SCHEDULE)**

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2006 by and between MOBAY GAS STORAGE HUB, INC. ("MoBay") and FLORIDA POWER & LIGHT COMPANY ("Shipper"), pursuant to the following recitals and representations.

WITNESSETH: That in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

Section 1. Service to be Rendered. MoBay shall perform and Shipper shall receive service in accordance with the provisions of the effective FSS Rate Schedule and applicable General Terms and Conditions of MoBay's FERC Gas Tariff, Original Volume No. 1 ("Tariff"), on file with the Federal Energy Regulatory Commission ("Commission"), as the same may be amended or superseded in accordance with the rules and regulations of the Commission. MoBay shall store quantities of gas for Shipper up to, but not exceeding, Shipper's Maximum Storage Quantity ("MSQ") as specified in Exhibit A, as the same may be amended from time to time by agreement between Shipper and MoBay, or in accordance with the rules and regulations of the Commission. Service hereunder shall be provided subject to the provisions of Part 284 of the Commission's Regulations.

Section 2. Receipt and Delivery Points. The point(s) at which the gas is tendered by Shipper to MoBay under this contract and the point(s) at which the gas is tendered by MoBay to Shipper under this contract shall be at the point(s) located on MoBay's system designated on Exhibit B hereto.

Section 3. Rates. Shipper shall pay MoBay the charges as described in the FSS Rate Schedule, and specified in Exhibit A to this Service Agreement.

Section 4. Term. Service under this Agreement shall commence as of the in-service date of the MoBay Storage Project and shall continue in full force and effect until the fifteenth anniversary of the in-service date ("Term"). Pre-granted abandonment shall apply upon termination of this Agreement, subject to any right of first refusal Shipper may have under the Commission's regulations and MoBay's Tariff.

Section 5. Notices. Notices to MoBay under this Agreement shall be addressed to it at 1776 Yorktown, Suite 500, Houston, Texas 13501, Attention: Vice President of Marketing, and notices to Shipper shall be addressed to it at 700 Universe Blvd., Juno Beach, FL 33408 Attention: EMT - Gas Operations, until changed by either Party by written notice.

Section 6. Prior Agreements Cancelled. This Service Agreement supersedes and cancels, as of the effective date hereof, the following Service Agreements: N/A

Section 7. Law of Agreement. THE INTERPRETATION AND PERFORMANCE OF THIS AGREEMENT SHALL BE IN ACCORDANCE WITH AND CONTROLLED BY THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO DOCTRINES GOVERNING CHOICE OF LAW.

Section 8. Warehousemen's Lien.

(a) SHIPPER HEREBY ACKNOWLEDGES THAT MOBAY SHALL BE ENTITLED TO, AND MOBAY HEREBY CLAIMS, A LIEN ON ALL GAS RECEIVED BY MOBAY FROM SHIPPER, AND ALL PROCEEDS THEREOF, UPON SUCH RECEIPT BY MOBAY, AS PROVIDED IN SECTION 7-209 OF THE NEW YORK UNIFORM COMMERCIAL CODE WITH THE RIGHTS OF ENFORCEMENT AS PROVIDED THEREIN AND HEREIN. IN NO WAY LIMITING THE FOREGOING, SHIPPER HEREBY



ACKNOWLEDGES THAT MOBAY SHALL BE ENTITLED TO, AND MOBAY HEREBY CLAIMS, A LIEN FOR ALL CHARGES FOR STORAGE OR TRANSPORTATION (INCLUDING DEMURRAGE AND TERMINAL CHARGES), INSURANCE, LABOR, OR CHARGES PRESENT OR FUTURE IN RELATION TO THE RECEIVED GAS, AND FOR EXPENSES NECESSARY FOR PRESERVATION OF THE RECEIVED GAS OR REASONABLY INCURRED IN THE SALE THEREOF, PURSUANT TO LAW, AND THAT SUCH LIEN SHALL EXTEND TO LIKE CHARGES AND EXPENSES IN RELATION TO ALL SUCH RECEIVED GAS.

(b) IF DEEMED NECESSARY BY A COURT OF LAW, PURSUANT TO SECTION 7-202(2) OF THE NEW YORK UNIFORM COMMERCIAL CODE, SHIPPER HEREBY AGREES THAT:

(i) THIS AGREEMENT, WITH ALL SCHEDULES AND EXHIBITS HERETO, AND ALL OF THE MONTHLY STATEMENTS RENDERED BY MOBAY TO SHIPPER PURSUANT TO THE GENERAL TERMS AND CONDITIONS CONTAINED IN SHIPPER'S TARIFF, SHALL BE DEEMED A "WAREHOUSE RECEIPT" FOR ALL PURPOSES WITH RESPECT TO ARTICLE 7 OF THE NEW YORK UNIFORM COMMERCIAL CODE, REGARDLESS OF WHEN THE GAS STORED PURSUANT TO THE CONTRACT IS RECEIVED,

(ii) THE LOCATION OF THE WAREHOUSE, TO WHOM THE GAS WILL BE DELIVERED, RATE OF STORAGE AND HANDLING CHARGES, AND DESCRIPTION OF THE GOODS ARE AS SET FORTH, RESPECTIVELY, IN OF THE GENERAL TERMS AND CONDITIONS, APPENDIX B OF THIS AGREEMENT, THE MONTHLY STATEMENT (AS DESCRIBED IN SECTION 8.1 OF THE GENERAL TERMS AND CONDITIONS) AND SECTION 1.7 OF THE GENERAL TERMS AND CONDITIONS,

(iii) THE ISSUE DATE OF THE WAREHOUSE RECEIPT WITH RESPECT TO EACH RECEIPT OF GAS SHALL BE DEEMED TO BE THE DATE SUCH GAS WAS RECEIVED,

(iv) THE CONSECUTIVE NUMBER OF THE RECEIPT SHALL BE DEEMED BASED ON THE DATES OF RECEIPT WHEN LISTED IN CHRONOLOGICAL ORDER, BEGINNING WITH THE FIRST RECEIPT OF GAS UNDER THE TERMS OF THE CONTRACT, AND

(v) THE SIGNATURE OF MOBAY ON THE CONTRACT SHALL BE DEEMED TO BE THE SIGNATURE OF THE WAREHOUSEMAN.

FLORIDA POWER & LIGHT COMPANY

MOBAY GAS STORAGE HUB, INC.

By \_\_\_\_\_ By \_\_\_\_\_

Title \_\_\_\_\_ Title \_\_\_\_\_

Revision No. \_\_\_\_\_  
Control No. \_\_\_\_\_

Exhibit A to Service Agreement No. \_\_\_\_\_  
Under Rate Schedule FSS  
Between  
MoBay Gas Storage Hub, Inc. (MoBay)  
And  
Florida Power & Light Company (Shipper)

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Maximum Storage Quantity (MSQ)	6,000,000 Dth
Base Gas Requirement Ratio	Fifty Percent
Base Gas Supplied by Shipper	3,000,000 Dth
Base Gas Supplied by MoBay	N/A Dth
Maximum Daily Withdrawal Quantity (MDWQ)	
<u>Working Gas Inventory:</u>	<u>MDWQ:</u>
0 to 1,750,000 Dth:	50,000 Dth per Day
1,750,000 to 2,500,000 Dth:	150,000 Dth per Day
2,500,000 to 6,000,000 Dth:	350,000 Dth per Day
Maximum Daily Injection Quantity (MDIQ)	150,000 Dth per Day
Maximum Hourly Withdrawal Quantity (MHWQ)	_____ Dth per Hour*
Maximum Hourly Injection Quantity (MHIQ)	_____ Dth per Hour*
Monthly Storage Reservation Charge (exclusive of Base Gas Charge and Inventory Insurance Charge)	██████████ per Dth of MSQ
Monthly Base Gas Charge	\$ N/A per Dth of Base Gas Supplied by MoBay
Monthly Inventory Insurance Charge	\$0.0125 per Dth of Shipper Gas (MSQ + Base Gas Supplied by Shipper)
Inventory Replacement Value Cap	\$15.00 per Dth
Injection Charge	██████████ per Dth
Withdrawal Charge	██████████ per Dth
Excess Injection Charge	Negotiable
Excess Withdrawal Charge	Negotiable
Fuel Retention (injected and withdrawn volumes)	One Percent
Authorized Overrun Service Charge	Negotiable

Shipper will   X  /will not \_\_\_\_\_ provide the Base Gas required pursuant to the Base Gas Requirement Ratio. If Shipper does not elect to provide the Base Gas within 30 days after the start of construction, then MoBay will provide the Base Gas at Shipper's expense for a Monthly Base Gas Charge. The Monthly Base Gas Charge shall be calculated as the product of the Base Gas cost, multiplied by the Monthly Base Gas Interest Rate. The Monthly Base Gas Interest Rate shall be the Prime Rate of Interest (as published in the Wall Street Journal), plus 2%, divided by 12 ((Prime Rate + 2%)/12). For example, if the cost of the base gas is \$7.00 per Dth and the Prime Rate of Interest is 5%, then the Monthly Base Gas Charge will be \$0.04 per Dth of Base Gas ((\$7.00 x (5% + 2%))/12).

MoBay will   X  /will not \_\_\_\_\_ insure the Replacement Cost of Shipper's gas ( at Shipper's expense pursuant to Section 12.2 of the General Terms and Conditions) calculated as the product of the Inventory Insurance Charge, multiplied by the sum of Shipper's MSQ, plus the Base Gas Supplied by Shipper. MoBay shall have the right to adjust Shipper's Monthly Insurance Charge for any increase in insurance costs required to be paid by MoBay; provided however, that Shipper may elect to reject the insurance coverage provided by MoBay at any time upon written notice to MoBay as set out hereinafter. Any election by Shipper to reject insurance on Shipper's gas must be made within fifteen (15) days after MoBay provides notice of the terms of the coverage, or any renewal thereof, and any such rejection shall be irrevocable. Owner shall have no further obligation to maintain insurance on Shipper's gas.

\* NOTE 1: The MHIQ shall equal 1/24<sup>th</sup> of the MDIQ and the MHWQ shall equal 1/24<sup>th</sup> of the MDWQ unless the Parties specifically designate otherwise on this schedule.

FLORIDA POWER & LIGHT COMPANY

MOBAY GAS STORAGE HUB, INC.

By

By

Its

Its

Date

Date

Revision No. \_\_\_\_\_  
Control No. \_\_\_\_\_

Exhibit B to Service Agreement No. \_\_\_\_\_  
Under Rate Schedule FSS  
Between  
MoBay Gas Storage Hub, Inc. (MoBay)  
And  
Florida Power & Light Company (Shipper)

**POINTS OF RECEIPT**

1. Gulfstream Pipeline
2. Transco Pipeline, Mobile Bay Lateral
3. Florida Gas Transmission (via Transco Mobile Bay Lateral)
4. GulfSouth Pipeline

For each designated point of receipt, Shipper's Maximum Daily Receipt Quantity (MDRQ) shall be the Shipper's MDIQ. Shipper's aggregate daily nominated receipt quantity shall not exceed Shipper's MDIQ.

**POINTS OF DELIVERY**

1. Gulfstream Pipeline
2. Transco Pipeline, Mobile Bay Lateral
3. Florida Gas Transmission (via Transco Mobile Bay Lateral)
4. GulfSouth Pipeline

For each designated point of delivery, Shipper's Maximum Daily Delivery Quantity (MDDQ) shall be the Shipper's MDWQ. Shipper's aggregate daily nominated delivery quantity shall not exceed Shipper's MDWQ.

Receipt and Delivery quantities shall be subject to applicable General Terms and Conditions of MoBay's FERC Gas Tariff, Original Volume No. 1 ("Tariff"), on file with the Federal Energy Regulatory Commission ("Commission"), as the same may be amended or superseded in accordance with the rules and regulations of the Commission.

	A	B	C	D	E	F
	Storage Facilities	Firm Capacity	Withdrawal (MMBtu/day)	Injection (MMBtu/day)	Reservation Charge (\$/MMBtu per month)	Annual Storage Cost per Bcf
1						
2						
3						
4						
5						
6	Bay Gas	2 Bcf	325,000	75,000		
7						
8	MoBay/Falcon	6 Bcf	350,000	150,000		
9						