

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20050580

1. ACTION REQUESTED/PURPOSE:

Approve and authorize the Chairman to sign the "Interconnection Feasibility Study Agreement" with Florida Power & Light (FP&L) that includes a payment of \$10,000.00 deposit to FPL for its performance of the interconnection Feasibility Study.

2. WHAT ACTION ACCOMPLISHES:

Allows FP&L to initiate the necessary review to determine impacts to its transmission system for the connection of the WTE Expansion Project generator.

3. MANAGEMENT RECOMMENDATION: Staff recommends approval.

4. Departmental Category: <u>C8A</u>		5. Meeting Date: <u>05-10-2005</u>
6. Agenda: <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	7. Requirement/Purpose: (specify)	
	<input type="checkbox"/> Statute	
	<input type="checkbox"/> Ordinance	
	<input type="checkbox"/> Admin. Code	
	<input checked="" type="checkbox"/> Other	<u>AGRMT</u>
		8. Request Initiated: Commissioner _____ Department <u>Public Works</u> Division <u>Solid Waste</u> By: <u>Lindsey Sampson</u>

9. Background:

The Solid Waste Division made its application to FP&L for the addition of a generator at the WTE on January 28, 2005. In April 2005, FP&L determined that the County's technical information was sufficient for FP&L to begin its "Interconnection Feasibility Study" (IFS).

FP&L requires an IFS agreement in order for it to complete the study.

Funds are available in:
20092340102.506510

Solid Waste Processing Equipment – S.W. Management – Professional Services

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
<u>[Signature]</u> 4/26/05	N.A.	N. A.	N. A.		Analyst <u>[Signature]</u> 4/27/05	Risk <u>[Signature]</u> 4/27/05	Grants <u>[Signature]</u> 4/27/05	Mgr. <u>[Signature]</u> 4/27/05	<u>[Signature]</u> 4/26/05

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

Rec. by CoAtty
Date: <u>4/27/05</u>
Time: <u>8:00</u>
Forwarded To:

RECEIVED BY COUNTY ADMIN: <u>[Signature]</u>
<u>4-27-05</u> mp.
10:50 am
COUNTY ADMIN FORWARDED TO: <u>[Signature]</u>
<u>4/28/05</u>

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INTERCONNECTION FEASIBILITY STUDY AGREEMENT

DRAFT

THIS Agreement is made and entered into this _____ day of _____, 2005 by and between Lee County, Florida, a county government in the State of Florida ("Interconnection Customer") and Florida Power & Light Company, a corporation organized and existing under the laws of the State of Florida, ("Transmission Provider"). Interconnection Customer and Transmission Provider each may be referred to as a "Party," or collectively as the "Parties."

RECITALS

WHEREAS, Interconnection Customer is proposing to develop a Large Generating Facility or generating capacity addition to an existing Generating Facility consistent with the Interconnection Request submitted by the Interconnection Customer dated January 28, 2005; and

WHEREAS, Interconnection Customer desires to interconnect the Large Generating Facility with the Transmission System; and

WHEREAS, Interconnection Customer has requested the Transmission Provider to perform an Interconnection Feasibility Study to assess the feasibility of interconnecting the proposed Large Generating Facility to the Transmission System, and of any Affected Systems;

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein the Parties agreed as follows:

- 1.0 When used in this Agreement, with initial capitalization, the terms specified shall have the meanings indicated in the Transmission Provider's FERC-approved LGIP.
- 2.0 Interconnection Customer elects and Transmission Provider shall cause to be performed an Interconnection Feasibility Study consistent with Section 6.0 of this LGIP in accordance with the Tariff.
- 3.0 The scope of the Interconnection Feasibility Study shall be subject to the assumptions set forth in Attachment A to this Agreement.
- 4.0 The Interconnection Feasibility Study shall be based on the technical information provided by Interconnection Customer in the Interconnection Request, as may be modified as the result of the Scoping Meeting. Transmission Provider reserves the right to request additional technical information from Interconnection Customer as may reasonably become necessary consistent with Good Utility Practice during the course of the Interconnection Feasibility Study and as designated in accordance with Section 3.3.4 of the LGIP. If, after the designation of the Point of Interconnection pursuant to Section 3.3.4 of the LGIP,

1 Interconnection Customer modifies its Interconnection Request pursuant to
2 Section 4.4, the time to complete the Interconnection Feasibility Study may be
3 extended.

4
5 5.0 The Interconnection Feasibility Study report shall provide the following
6 information:

- 7
- 8 - preliminary identification of any circuit breaker short circuit capability
9 limits exceeded as a result of the interconnection;
- 10
- 11 - preliminary identification of any thermal overload or voltage limit
12 violations resulting from the interconnection; and
- 13
- 14 - preliminary description and non-binding estimated cost of facilities
15 required to interconnect the Large Generating Facility to the Transmission
16 System and to address the identified short circuit and power flow issues.
- 17

18 6.0 The Interconnection Customer shall provide a deposit of \$10,000 for the
19 performance of the Interconnection Feasibility Study.

20
21 Upon receipt of the Interconnection Feasibility Study the Transmission Provider
22 shall charge and Interconnection Customer shall pay the actual costs of the
23 Interconnection Feasibility Study.

24
25 Any difference between the deposit and the actual cost of the study shall be paid
26 by or refunded to the Interconnection Customer, as appropriate.

27
28 7.0 Indemnity. The Parties shall at all times indemnify, defend, and hold the other
29 Party harmless from, any and all damages, losses, claims, including claims and
30 actions relating to injury to or death of any person or damage to property,
31 demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all
32 other obligations by or to third parties, arising out of or resulting from the other
33 Party's action or inactions of its obligations under this Agreement on behalf of the
34 indemnifying Party, except in cases of gross negligence or intentional wrongdoing
35 by the indemnified Party.

36
37 7.1 Indemnified Person. If an Indemnified Person is entitled to
38 indemnification under this Agreement as a result of a claim by a third
39 party, and the indemnifying Party fails, after notice and reasonable
40 opportunity to proceed, to assume the defense of such claim, such
41 Indemnified Person may at the expense of the indemnifying Party contest,
42 settle or consent to the entry of any judgment with respect to, or pay in
43 full, such claim.

1 7.2 Indemnifying Party. If an Indemnifying Party is obligated to indemnify
2 and hold any Indemnified Person harmless under this Agreement, the
3 amount owing to the Indemnified Person shall be the amount of such
4 Indemnified Person's actual Loss, net of any insurance or other recovery.
5

6 7.3 Indemnity Procedures. Promptly after receipt by an Indemnified Person of
7 any claim or notice of the commencement of any action or administrative
8 or legal proceeding or investigation as to which the indemnity provided
9 for in this Agreement may apply, the Indemnified Person shall notify the
10 Indemnifying Party of such fact. Any failure of or delay in such
11 notification shall not affect a Party's indemnification obligation unless
12 such failure or delay is materially prejudicial to the Indemnifying Party.
13

14 The Indemnifying Party shall have the right to assume the defense thereof
15 with counsel designated by such Indemnifying Party and reasonably
16 satisfactory to the Indemnified Person. If the defendants in any such
17 action include one or more Indemnified Persons and the Indemnifying
18 Party and if the Indemnified Person reasonably concludes that there may
19 be legal defenses available to it and/or other Indemnified Persons which
20 are different from or additional to those available to the Indemnifying
21 Party, the Indemnified Person shall have the right to select separate
22 counsel to assert such legal defenses and to otherwise participate in the
23 defense of such action on its own behalf. In such instances, the
24 Indemnifying Party shall only be required to pay the fees and expenses of
25 one additional attorney to represent an Indemnified Person or Indemnified
26 Persons having such differing or additional legal defenses.

27 The Indemnified Person shall be entitled, at its expense, to participate in
28 any such action, suit or proceeding, the defense of which has been
29 assumed by the Indemnifying Party.
30

31 Notwithstanding the foregoing, the Indemnifying Party (i) shall not be
32 entitled to assume and control the defense of any such action, suit or
33 proceedings if and to the extent that, in the opinion of the Indemnified
34 Person and its counsel, such action, suit or proceeding involves the
35 potential imposition of criminal liability on the Indemnified Person, or
36 there exists a conflict or adversity of interest between the Indemnified
37 Person and the Indemnifying Party, in such event the Indemnifying Party
38 shall pay the reasonable expenses of the Indemnified Person, and (ii) shall
39 not settle or consent to the entry of any judgment in any action, suit or
40 proceeding without the consent of the Indemnified Person, which shall not
41 be reasonably withheld, conditioned or delayed.
42

43 8.0 Assignment. This Agreement may be assigned by either Party only with the
44 written consent of the other; provided that either Party may assign this Agreement

1 without the consent of the other Party to any Affiliate of the assigning Party with
2 an equal or greater credit rating and with the legal authority and operational
3 ability to satisfy the obligations of the assigning Party under this Agreement; and
4 provided further that Interconnection Customer shall have the right to assign this
5 Agreement, without the consent of Transmission Provider, for collateral security
6 purposes to aid in providing financing for the Large Generating Facility, provided
7 that Interconnection Customer will promptly notify Transmission Provider of any
8 such assignment. Any financing arrangement entered into by Interconnection
9 Customer pursuant to this article will provide that prior to or upon the exercise of
10 the secured party's, trustee's or mortgagee's assignment rights pursuant to said
11 arrangement, the secured creditor, the trustee or mortgagee will notify
12 Transmission Provider of the date and particulars of any such exercise of
13 assignment right(s), including providing the Transmission Provider with proof
14 that it meets the requirements of this Agreement. Any attempted assignment that
15 violates this article is void and ineffective. Any assignment under this Agreement
16 shall not relieve a Party of its obligations, nor shall a Party's obligations be
17 enlarged, in whole or in part, by reason thereof. Where required, consent to
18 assignment will not be unreasonably withheld, conditioned or delayed.
19

20 9.0 Severability. If any provision in this Agreement is finally determined to be
21 invalid, void or unenforceable by any court or other Governmental Authority
22 having jurisdiction, such determination shall not invalidate, void or make
23 unenforceable any other provision, agreement or covenant of this Agreement.
24

25 10.0 No Warranties. By providing Confidential Information, neither Party makes any
26 warranties or representations as to its accuracy or completeness. In addition, by
27 supplying Confidential Information, neither Party obligates itself to provide any
28 particular information or Confidential Information to the other Party nor to enter
29 into any further agreements or proceed with any other relationship or joint
30 venture.
31

32 11.0 Standard of Care. Each Party shall use at least the same standard of care to
33 protect Confidential Information it receives as it uses to protect its own
34 Confidential Information from unauthorized disclosure, publication or
35 dissemination. Each Party may use Confidential Information solely to fulfill its
36 obligations to the other Party under this Agreement or its regulatory requirements.
37

38 12.0 General. Each Party makes the following representations, warranties and
39 covenants:
40

41 12.1 Good Standing. Such Party is duly organized, validly existing and in good
42 standing under the laws of the state in which it is organized, formed, or
43 incorporated, as applicable; that it is qualified to do business in the state or
44 states in which the Large Generating Facility, Interconnection Facilities
45 and Network Upgrades owned by such Party, as applicable, are located;

1 and that it has the corporate power and authority to own its properties, to
2 carry on its business as now being conducted and to enter into this
3 Agreement and carry out the transactions contemplated hereby and
4 perform and carry out all covenants and obligations on its part to be
5 performed under and pursuant to this Agreement.
6

7 12.2 Authority. Such Party has the right, power and authority to enter into this
8 Agreement, to become a party hereto and to perform its obligations
9 hereunder. This Agreement is a legal, valid and binding obligation of such
10 Party, enforceable against such Party in accordance with its terms, except
11 as the enforceability thereof may be limited by applicable bankruptcy,
12 insolvency, reorganization or other similar laws affecting creditors' rights
13 generally and by general equitable principles (regardless of whether
14 enforceability is sought in a proceeding in equity or at law).
15

16 12.3 No Conflict. The execution, delivery and performance of this Agreement
17 does not violate or conflict with the organizational or formation
18 documents, or bylaws or operating agreement, of such Party, or any
19 judgment, license, permit, order, material agreement or instrument
20 applicable to or binding upon such Party or any of its assets.
21

22 12.4 Consent and Approval. Such Party has sought or obtained, or, in
23 accordance with this Agreement will seek or obtain, each consent,
24 approval, authorization, order, or acceptance by any Governmental
25 Authority in connection with the execution, delivery and performance of
26 this Agreement, and it will provide to any Governmental Authority notice
27 of any actions under this Agreement that are required by Applicable Laws
28 and Regulations.
29

30 13.0 MISCELLANEOUS

31 13.1 Binding Effect. This Agreement and the rights and obligations hereof,
32 shall be binding upon and shall inure to the benefit of the successors and
33 assigns of the Parties hereto.
34

35 13.2 Conflicts. In the event of a conflict between the body of this Agreement
36 and any attachment, appendices or exhibits hereto, the terms and
37 provisions of the body of this Agreement shall prevail and be deemed the
38 final intent of the Parties.
39

40 13.3 Rules of Interpretation. This Agreement, unless a clear contrary intention
41 appears, shall be construed and interpreted as follows: (1) The singular
42 number includes the plural number and vice versa; (2) reference to any
43 person includes such person's successors and assigns but, in the case of a
44 Party, only if such successors and assigns are permitted by this
45 Agreement, and reference to a person in a particular capacity excludes

1 such person in any other capacity or individually; (3) reference to any
2 agreement (including this Agreement), document, instrument or tariff
3 means such agreement, document, instrument, or tariff as amended or
4 modified and in effect from time to time in accordance with the terms
5 thereof and, if applicable, the terms hereof; (4) reference to any
6 Applicable Laws and Regulations means such Applicable Laws and
7 Regulations as amended, modified, codified, or reenacted, in whole or in
8 part, and in effect from time to time, including, if applicable, rules and
9 regulations promulgated thereunder; (5) unless expressly stated otherwise,
10 reference to any Article, Section or Appendix means such Article of this
11 Agreement or such Appendix to this Agreement, or such Section to the
12 LGIP or such Appendix to the LGIP, as the case may be; (6) "hereunder",
13 "hereof", "herein", "hereto" and words of similar import shall be deemed
14 references to this Agreement as a whole and not to any particular Article
15 or other provision hereof or thereof; (7) "including" (and with correlative
16 meaning "include") means including without limiting the generality of any
17 description preceding such term; and (8) relative to the determination of
18 any period of time, "from" means "from and including", "to" means "to
19 but excluding" and "through" means "through and including".
20

21 13.4 Entire Agreement. This Agreement, including all Appendices and
22 Schedules attached hereto, constitutes the entire agreement between the
23 Parties with reference to the subject matter hereof, and supersedes all prior
24 and contemporaneous understandings or agreements, oral or written,
25 between the Parties with respect to the subject matter of this Agreement.
26 There are no other agreements, representations, warranties, or covenants
27 which constitute any part of the consideration for, or any condition to,
28 either Party's compliance with its obligations under this Agreement.
29

30 13.5 No Third Party Beneficiaries. This Agreement is not intended to and does
31 not create rights, remedies, or benefits of any character whatsoever in
32 favor of any persons, corporations, associations, or entities other than the
33 Parties, and the obligations herein assumed are solely for the use and
34 benefit of the Parties, their successors in interest and, where permitted,
35 their assigns.
36

37 13.6 Waiver. The failure of a Party to this Agreement to insist, on any
38 occasion, upon strict performance of any provision of this Agreement will
39 not be considered a waiver of any obligation, right, or duty of, or imposed
40 upon, such Party. Any waiver at any time by either Party of its rights with
41 respect to this Agreement shall not be deemed a continuing waiver or a
42 waiver with respect to any other failure to comply with any other
43 obligation, right, duty of this Agreement. Termination or Default of this
44 Agreement for any reason by Interconnection Customer shall not
45 constitute a waiver of Interconnection Customer's legal rights to obtain an

1 interconnection from Transmission Provider. Any waiver of this
2 Agreement shall, if requested, be provided in writing.

3
4 13.7 Headings. The descriptive headings of the various Articles of this
5 Agreement have been inserted for convenience of reference only and are
6 of no significance in the interpretation or construction of this Agreement.

7
8 13.8 Multiple Counterparts. This Agreement may be executed in two or more
9 counterparts, each of which is deemed an original but all constitute one
10 and the same instrument.

11
12 13.9 Amendment. The Parties may by mutual agreement amend this
13 Agreement by a written instrument duly executed by the Parties.

14
15 13.10 Modification by the Parties. The Parties may by mutual agreement amend
16 the Appendices to this Agreement by a written instrument duly executed
17 by the Parties. Such amendment shall become effective and a part of this
18 Agreement upon satisfaction of all Applicable Laws and Regulations.

19
20 13.11 No Partnership. This Agreement shall not be interpreted or construed to
21 create an association, joint venture, agency relationship, or partnership
22 between the Parties or to impose any partnership obligation or partnership
23 liability upon either Party. Neither Party shall have any right, power or
24 authority to enter into any agreement or undertaking for, or act on behalf
25 of, or to act as or be an agent or representative of, or to otherwise bind, the
26 other Party.
27

1 **IN WITNESS WHEREOF**, the Parties have caused this Agreement to be duly executed
2 by their duly authorized officers or agents on the day and year first above written.
3

4
5 **FLORIDA POWER & LIGHT COMPANY**

6
7 By: _____

8
9 Title: Manager, Transmission Services

10
11 Date: _____
12
13

14
15 **LEE COUNTY, FLORIDA**

16
17
18 By: _____

19
20 Title: _____

21
22 Date: _____
23
24

**Attachment A to
Interconnection Feasibility
Study Agreement**

**ASSUMPTIONS USED IN CONDUCTING THE
INTERCONNECTION FEASIBILITY STUDY**

The Interconnection Feasibility Study will be based upon the information set forth in the Interconnection Request and agreed upon in the Scoping Meeting held on _____, 2005:

Point of Interconnection to be studied will be at the point where the interconnecting radial line connects to the bus at Transmission Provider's Buckingham substation and configuration to be studied will be a new 138kV generator interconnection extending from the Interconnection Customer's switchyard to Transmission Provider's Buckingham-Lazy Acres 138kV transmission line as shown on the attached one-line diagram.

Transmission Provider will evaluate the feasibility of metering the combined output of the Large Generating Facility and the existing generating unit, identified as TG-1 on the attached one-line diagram, during the Feasibility Study.

Load flow analysis performed during the Feasibility Study will model the Large Generating Facility as a Network Resource for Seminole Electric Cooperative, Inc. ("SEC") in accordance with an agreement between SEC and the Interconnection Customer to sell the output of the Large Generating Facility to SEC.

Attachment A to
Interconnection Feasibility
Study Agreement

