

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

Blue Sheet No. 2005 11 / 5

**1. ACTION REQUESTED/PURPOSE:**

Approve and authorize the Chairman to sign the "Interconnection System Impact Study Agreement" with Florida Power & Light (FPL) that includes a payment of \$50,000.00 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:** 8 C8A **5. Meeting Date:** 08-30-2005

<b>6. Agenda:</b> <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	<b>7. Requirement/Purpose: (specify)</b>		<b>8. Request Initiated:</b> Commissioner _____ Department <u>Public Works</u> Division <u>Solid Waste</u> By: <u>Lindsey Sampson</u>
	<input type="checkbox"/> Statute	_____	
	<input type="checkbox"/> Ordinance	_____	
	<input type="checkbox"/> Admin. Code	_____	
	<input checked="" type="checkbox"/> Other	<u>AGRMT</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). Lee County authorized FPL to perform the IFS study in May 2005. FPL has completed this study and is now prepared to perform the next required study as noted above in accordance with its "Open Access Transmission Tariff" requirements.

FP&L requires an ISIS 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
					Analyst	Risk	Grants	Mgr.	
<u>J. J. Jumper</u> 8-18-05	N.A.	N.A.	N.A.		<u>R. J. Jumper</u> 8/23/05	<u>R. J. Jumper</u> 8/18/05	<u>R. J. Jumper</u> 8/18/05	<u>R. J. Jumper</u> 8/18/05	<u>J. J. Jumper</u> 8-18-05

**11. Commission Action:**

- Approved
- Deferred
- Denied
- Other

RECEIVED BY  
COUNTY ADMIN:  
8-18-05  
4:30 PM  
COUNTY ADMIN  
FORWARDED TO:  
5/11/05  
SPM

CO. ATTY.  
FORWARDED TO:  
6. 10.05  
8-18-05



1 reserves the right to request additional technical information from Interconnection  
2 Customer as may reasonably become necessary consistent with Good Utility  
3 Practice during the course of the Interconnection Customer System Impact Study.  
4 If Interconnection Customer modifies its designated Point of Interconnection,  
5 Interconnection Request, or the technical information provided therein is  
6 modified, the time to complete the Interconnection System Impact Study may be  
7 extended.  
8

9 5.0 The Interconnection System Impact Study report shall provide the following  
10 information:

- 11 - identification of any circuit breaker short circuit capability limits exceeded  
12 as a result of the interconnection;
- 13 - identification of any thermal overload or voltage limit violations resulting  
14 from the interconnection;
- 15 - identification of any instability or inadequately damped response to  
16 system disturbances resulting from the interconnection; and
- 17 - description and non-binding, good faith estimated cost of facilities  
18 required to interconnect the Large Generating Facility to the Transmission  
19 System and to address the identified short circuit, instability, and power  
20 flow issues.  
21

22 6.0 The Interconnection Customer shall provide a deposit of \$50,000 for the  
23 performance of the Interconnection System Impact Study. The Transmission  
24 Provider's good faith estimate for the time of completion of the Interconnection  
25 System Impact Study is November 30, 2005.  
26

27 Upon receipt of the Interconnection System Impact Study, Transmission Provider  
28 shall charge and Interconnection Customer shall pay the actual costs of the  
29 Interconnection System Impact Study.  
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31 Any difference between the deposit and the actual cost of the study shall be paid  
32 by or refunded to the Interconnection Customer, as appropriate.  
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34 7.0 Indemnity. The Parties shall at all times indemnify, defend, and hold the other  
35 Party harmless from, any and all damages, losses, claims, including claims and  
36 actions relating to injury to or death of any person or damage to property,  
37 demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all  
38 other obligations by or to third parties, arising out of or resulting from the other  
39 Party's action or inactions of its obligations under this Agreement on behalf of the  
40 indemnifying Party, except in cases of gross negligence or intentional wrongdoing  
41 by the indemnified Party.  
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- 7.1 Indemnified Person. If an Indemnified Person is entitled to indemnification under this Agreement as a result of a claim by a third party, and the indemnifying Party fails, after notice and reasonable opportunity to proceed, to assume the defense of such claim, such Indemnified Person may at the expense of the indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.
- 7.2 Indemnifying Party. If an Indemnifying Party is obligated to indemnify and hold any Indemnified Person harmless under this Agreement, the amount owing to the Indemnified Person shall be the amount of such Indemnified Person's actual Loss, net of any insurance or other recovery.
- 7.3 Indemnity Procedures. Promptly after receipt by an Indemnified Person of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in this Agreement may apply, the Indemnified Person shall notify the Indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the Indemnifying Party.

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

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

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Notwithstanding the foregoing, the Indemnifying Party (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Person and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Indemnified Person, or there exists a conflict or adversity of interest between the Indemnified Person and the Indemnifying Party, in such event the Indemnifying Party

1 shall pay the reasonable expenses of the Indemnified Person, and (ii) shall  
2 not settle or consent to the entry of any judgment in any action, suit or  
3 proceeding without the consent of the Indemnified Person, which shall not  
4 be reasonably withheld, conditioned or delayed.  
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6 7.4 Nothing in this agreement shall be agreed, altered or construed to waive  
7 the Interconnection Customer (Lee County) liability beyond the limits  
8 established in the Florida Statutes, as such may be revised or amended  
9 from time to time. To the extent permitted by Florida law, the  
10 Interconnection Customer (Lee County) will be liable for money damages  
11 in tort for any injuries to or losses of property, personal injury, or death  
12 caused by the negligent or wrongful act(s) or omission(s) of any official or  
13 employee of the Interconnection Customer (Lee County) while acting  
14 within the scope of the official's or employee's office or employment  
15 under circumstances in which a private person would be held to be liable  
16 in accordance with the general laws of the State of Florida.  
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18 8.0 Assignment. This Agreement may be assigned by either Party only with the  
19 written consent of the other; provided that either Party may assign this Agreement  
20 without the consent of the other Party to any Affiliate of the assigning Party with  
21 an equal or greater credit rating and with the legal authority and operational  
22 ability to satisfy the obligations of the assigning Party under this Agreement; and  
23 provided further that Interconnection Customer shall have the right to assign this  
24 Agreement, without the consent of Transmission Provider, for collateral security  
25 purposes to aid in providing financing for the Large Generating Facility, provided  
26 that Interconnection Customer will promptly notify Transmission Provider of any  
27 such assignment. Any financing arrangement entered into by Interconnection  
28 Customer pursuant to this article will provide that prior to or upon the exercise of  
29 the secured party's, trustee's or mortgagee's assignment rights pursuant to said  
30 arrangement, the secured creditor, the trustee or mortgagee will notify  
31 Transmission Provider of the date and particulars of any such exercise of  
32 assignment right(s), including providing the Transmission Provider with proof  
33 that it meets the requirements of this Agreement. Any attempted assignment that  
34 violates this article is void and ineffective. Any assignment under this Agreement  
35 shall not relieve a Party of its obligations, nor shall a Party's obligations be  
36 enlarged, in whole or in part, by reason thereof. Where required, consent to  
37 assignment will not be unreasonably withheld, conditioned or delayed.  
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39 9.0 Severability. If any provision in this Agreement is finally determined to be  
40 invalid, void or unenforceable by any court or other Governmental Authority  
41 having jurisdiction, such determination shall not invalidate, void or make  
42 unenforceable any other provision, agreement or covenant of this Agreement.  
43

44 10.0 No Warranties. By providing Confidential Information, neither Party makes any  
45 warranties or representations as to its accuracy or completeness. In addition, by  
46 supplying Confidential Information, neither Party obligates itself to provide any

1 particular information or Confidential Information to the other Party nor to enter  
2 into any further agreements or proceed with any other relationship or joint  
3 venture.  
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5 11.0 Standard of Care. Each Party shall use at least the same standard of care to  
6 protect Confidential Information it receives as it uses to protect its own  
7 Confidential Information from unauthorized disclosure, publication or  
8 dissemination. Each Party may use Confidential Information solely to fulfill its  
9 obligations to the other Party under this Agreement or its regulatory requirements.  
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11 12.0 General. Each Party makes the following representations, warranties and  
12 covenants:  
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14 12.1 Good Standing. Such Party is duly organized, validly existing and in good  
15 standing under the laws of the state in which it is organized, formed, or  
16 incorporated, as applicable; that it is qualified to do business in the state or  
17 states in which the Large Generating Facility, Interconnection Facilities  
18 and Network Upgrades owned by such Party, as applicable, are located;  
19 and that it has the corporate power and authority to own its properties, to  
20 carry on its business as now being conducted and to enter into this  
21 Agreement and carry out the transactions contemplated hereby and  
22 perform and carry out all covenants and obligations on its part to be  
23 performed under and pursuant to this Agreement.  
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25 12.2 Authority. Such Party has the right, power and authority to enter into this  
26 Agreement, to become a party hereto and to perform its obligations  
27 hereunder. This Agreement is a legal, valid and binding obligation of such  
28 Party, enforceable against such Party in accordance with its terms, except  
29 as the enforceability thereof may be limited by applicable bankruptcy,  
30 insolvency, reorganization or other similar laws affecting creditors' rights  
31 generally and by general equitable principles (regardless of whether  
32 enforceability is sought in a proceeding in equity or at law).  
33

34 12.3 No Conflict. The execution, delivery and performance of this Agreement  
35 does not violate or conflict with the organizational or formation  
36 documents, or bylaws or operating agreement, of such Party, or any  
37 judgment, license, permit, order, material agreement or instrument  
38 applicable to or binding upon such Party or any of its assets.  
39

40 12.4 Consent and Approval. Such Party has sought or obtained, or, in  
41 accordance with this Agreement will seek or obtain, each consent,  
42 approval, authorization, order, or acceptance by any Governmental  
43 Authority in connection with the execution, delivery and performance of  
44 this Agreement, and it will provide to any Governmental Authority notice  
45 of any actions under this Agreement that are required by Applicable Laws  
46 and Regulations.

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2 13.0 MISCELLANEOUS

3 13.1 Binding Effect. This Agreement and the rights and obligations hereof,  
4 shall be binding upon and shall inure to the benefit of the successors and  
5 assigns of the Parties hereto.  
6

7 13.2 Conflicts. In the event of a conflict between the body of this Agreement  
8 and any attachment, appendices or exhibits hereto, the terms and  
9 provisions of the body of this Agreement shall prevail and be deemed the  
10 final intent of the Parties.  
11

12 13.3 Rules of Interpretation. This Agreement, unless a clear contrary intention  
13 appears, shall be construed and interpreted as follows: (1) The singular  
14 number includes the plural number and vice versa; (2) reference to any  
15 person includes such person's successors and assigns but, in the case of a  
16 Party, only if such successors and assigns are permitted by this  
17 Agreement, and reference to a person in a particular capacity excludes  
18 such person in any other capacity or individually; (3) reference to any  
19 agreement (including this Agreement), document, instrument or tariff  
20 means such agreement, document, instrument, or tariff as amended or  
21 modified and in effect from time to time in accordance with the terms  
22 thereof and, if applicable, the terms hereof; (4) reference to any  
23 Applicable Laws and Regulations means such Applicable Laws and  
24 Regulations as amended, modified, codified, or reenacted, in whole or in  
25 part, and in effect from time to time, including, if applicable, rules and  
26 regulations promulgated thereunder; (5) unless expressly stated otherwise,  
27 reference to any Article, Section or Appendix means such Article of this  
28 Agreement or such Appendix to this Agreement, or such Section to the  
29 LGIP or such Appendix to the LGIP, as the case may be; (6) "hereunder",  
30 "hereof", "herein", "hereto" and words of similar import shall be deemed  
31 references to this Agreement as a whole and not to any particular Article  
32 or other provision hereof or thereof; (7) "including" (and with correlative  
33 meaning "include") means including without limiting the generality of any  
34 description preceding such term; and (8) relative to the determination of  
35 any period of time, "from" means "from and including", "to" means "to  
36 but excluding" and "through" means "through and including".  
37

38 13.4 Entire Agreement. This Agreement, including all Appendices and  
39 Schedules attached hereto, constitutes the entire agreement between the  
40 Parties with reference to the subject matter hereof, and supersedes all prior  
41 and contemporaneous understandings or agreements, oral or written,  
42 between the Parties with respect to the subject matter of this Agreement.  
43 There are no other agreements, representations, warranties, or covenants  
44 which constitute any part of the consideration for, or any condition to,  
45 either Party's compliance with its obligations under this Agreement.  
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- 13.5 No Third Party Beneficiaries. This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.
- 13.6 Waiver. The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party. Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement. Termination or Default of this Agreement for any reason by Interconnection Customer shall not constitute a waiver of Interconnection Customer's legal rights to obtain an interconnection from Transmission Provider. Any waiver of this Agreement shall, if requested, be provided in writing.
- 13.7 Headings. The descriptive headings of the various Articles of this Agreement have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this Agreement.
- 13.8 Multiple Counterparts. This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.
- 13.9 Amendment. The Parties may by mutual agreement amend this Agreement by a written instrument duly executed by the Parties.
- 13.10 Modification by the Parties. The Parties may by mutual agreement amend the Appendices to this Agreement by a written instrument duly executed by the Parties. Such amendment shall become effective and a part of this Agreement upon satisfaction of all Applicable Laws and Regulations.
- 13.11 No Partnership. This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.



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

FLORIDA POWER & LIGHT COMPANY

BY: \_\_\_\_\_  
Manager, Transmission Services

\_\_\_\_\_

ATTEST:  
CHARLIE GREEN CLERK OF COURT

LEE COUNTY BOARD OF COUNTY  
COMMISSIONERS

BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
Douglas St. Cerny, Chair

APPROVED AS TO FORM

BY: \_\_\_\_\_  
Office of the County Attorney

**Attachment A to  
Interconnection System Impact  
Study Agreement**

**ASSUMPTIONS USED IN CONDUCTING THE  
INTERCONNECTION SYSTEM IMPACT STUDY**

The Interconnection System Impact Study will be based upon the results of the Interconnection Feasibility Study, subject to any modifications in accordance with Section 4.4 of the LGIP, and the following assumptions:

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.

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

