

Annual Energy Adjustment for Resource Recovery  
June 14, 2010

Executive Summary

Through an Interlocal Agreement executed in 1986, the Broward Solid Waste Disposal District was established to provide for the disposal of solid waste from most of the municipalities within Broward County. The District is governed by the Resource Recovery Board, while budgetary control of this dependent district is retained by the County. A key element of the District's operations is the contractual operation of the two waste-to-energy plants. The County pays monthly service fees to the operators of these plants, on a per-ton basis, using multi-faceted formulas set forth in service agreements. One of the factors in these formulas is an adjustment for the price received by the plant operators for electricity generated at the plants.

In 1987, both waste-to-energy plant operators entered into long-term agreements to sell their generated electrical power to FPL. The agreement for the South Plant expired on August 1, 2009, and the parties did not execute a new agreement. Energy is currently sold on the daily "spot" market, at lower rates than under the previous long-term agreement, which has caused a substantial decline in electrical revenues for the South Plant. The energy adjustment portion of the formula, normally fairly stable from year-to-year, has suddenly increased. As a result, the monthly service fees paid by the County, which were budgeted based on a figure of \$68.93/ton, are now set at \$77.02/ton (an increase of 12%). Based on projected tonnage for FY 2010, a transfer from Resource Recovery Fund reserves of \$8.8 million is needed to cover the monthly service fees for the balance of the fiscal year. The existing budgeted funds will be sufficient to pay the July invoice, but not the August invoice.

The continued impact of these circumstances into FY 2011, as well as the future expiration of the FPL contract with the North Plant (on 12/31/10), have been incorporated into the proposed Resource Recovery Fund budget for the next fiscal year. In addition, the County's service agreement for the South Plant expires on August 1, 2011, while the service agreement for the North Plant expires on March 22, 2012. The Resource Recovery Board has initiated negotiations regarding new service agreements for both plants, and the proposed terms envision revenue sharing between the operators and the District

Current Resource Recovery Fund reserves are ample to accommodate the requested transfer. Future impacts on these reserves may include: the provisions of a new Interlocal Agreement among District participants; programmed capital projects; and optional programs under discussion by the Resource Recovery Board.

### Background

In 1986 an Interlocal Agreement (ILA) was executed between Broward County and a number of municipalities (currently 26 out of 31), to establish the Broward Solid Waste Disposal District. The District, governed by the Resource Recovery Board (RRB), provides for disposal of all solid waste delivered by haulers from the participating municipalities and the unincorporated areas of the county. The ILA delegates most of the County Commission's responsibilities regarding solid waste disposal (under Florida Statutes) to the RRB; however, the County Commission retains budgetary approval for the District.

A key component of the District is the contractual operation of two waste-to-energy facilities. Based on agreements as amended in 2001, full-service contractors designed, constructed, own, operate, and maintain these two facilities, one in South Broward (east of SR 7, south of I-595), and one in North Broward (east of the Florida Turnpike, north of Sample Road). The operators are referred to as Wheelabrator South Broward (South Plant) and Wheelabrator North Broward (North Plant). Since 1990, both companies have been subsidiaries of Waste Management Inc.

Each of the two waste-to-energy plants has a capacity of processing 2,250 tons of waste per day, and a gross electrical generating capacity of approximately 67 megawatts. Under the service agreements, the operators retain all profits from the sale of this electricity.

### Service Fees and Annual Energy Adjustments

The calculation of a monthly service fee is specified in agreements between Broward County and the plant operators. The calculation involves many variables and adjustment factors. The funds to pay the service fees are obtained by the County from fees charged to the haulers who deliver waste to the plants, and ultimately from the residents served, in the form of municipal utility charges.

One of the factors used to calculate the monthly service fee is an Energy Adjustment, addressing the purchase price of electricity generated by the plants.

For the South Plant, in a year for which the actual average rate paid for electricity exceeds an "assured rate" (which is annually adjusted for inflation), the Energy Adjustment paid to the County by the operator would be 75% of the difference between the two rates, multiplied by the net kilowatt hours sold per ton of waste.

In a year for which the annual average rate paid for electricity from the South Plant is below the adjusted assured rate, the Energy Adjustment paid to the operator by the County would be 100% of the difference between the two rates, multiplied by the net kilowatt hours sold per ton of waste.

Between 1992 and 2009, the Annual Energy Adjustment for the South Plant has always been a payment from the County to the operator, and has varied from \$9.71/ton to \$15.19/ton. In 2009, this Adjustment was \$12.64/ton.

For the North Plant, the agreement provides for two components for the Energy Adjustment: an Initial Energy Adjustment and an Annual Energy Adjustment. The Initial Energy Adjustment represents the change between 1984 and 1992, and has remained constant at \$5.95/ton since 1992.

In a year for which the annual average rate paid exceeds 110% of an escalated initial rate, the Annual Energy Adjustment paid to the County by the operator of the North Plant would be 50% of that difference, multiplied by the actual number of kilowatt hours generated per ton of waste.

In a year for which the annual average rate paid for electricity from the North Plant is below 90% of an escalated initial rate, the Annual Energy Adjustment paid to the operator by the County would be 100% of that difference, multiplied by the actual number of kilowatt hours generated per ton of waste.

Between 1992 and 2009, the Annual Energy Adjustment for the North Plant has always been either zero or a payment from the operator to the County, ranging from \$0.09/ton to \$2.28/ton. Combined with the constant Initial Energy Adjustment, total energy adjustments for the North Plant have always been a payment from the County to the operator, ranging from \$3.67/ton to \$5.95/ton.

The annual energy adjustment factors for each plant, by year, along with the net service fees (based on all factors and adjustments), are displayed in Exhibit 1.

In 1987, both waste-to-energy plant operators entered into long-term agreements to sell their generated electrical power to FPL. The agreement for the South Plant expired on August 1, 2009, and the parties did not execute a new agreement. The agreement for the North Plant expires on December 31, 2010, and Wheelabrator has indicated that a replacement agreement is not anticipated. Besides introducing more volatility into the rates paid to the plant operators for electric power, the expiration means the loss of most "capacity payments" to these operators as a guaranteed source of power. For the South Plant, these revenues were exceeding \$2 million per month prior to August 1, 2009, and are currently approximately \$300,000 per month.

#### Annual Estimation and Settlement Process

On August 1 of each year, the plant operators deliver to the County a good faith estimate of the factors needed to calculate the monthly service fees for the upcoming fiscal year. These factors are used, together with the actual amount of waste processed, to create monthly invoices, which are sent to the County after the tenth of each month. Corresponding payments are due within 15 days of receipt of each monthly statement.

By February 1 of each year, the plant operators deliver to the County an Annual Settlement Statement, which reconciles the monthly payments for the previous fiscal year (based on the estimated adjustment factors) with the actual data for the previous fiscal year. If the Statement shows that the County overpaid the operators, then a

refund (with interest) is paid to the County at the time of the Statement. If the Statement shows that the County has underpaid the operators, then this payment (with interest) is due within thirty days of receipt of the Statement.

As shown in Table A, the net service fees for each plant in previous years, based on the Annual Settlement Statements, varied only a small degree from fiscal year to fiscal year. These changes were sufficiently minor to be covered by budgeted funds, and were handled administratively.

#### Service Fees for FY 2010

On March 31, 2009, staff received correspondence from the operators providing a preliminary estimate of the FY 2010 combined (weighted average) service fee to be \$68.93/ton. This figure was for budgetary purposes only, and was not intended to be used as the monthly billing rate.

On July 31, 2009, the good faith estimate for FY 2010, provided by the operators, reflected the expiration of the contract with FPL for the South Plant. The estimated net service fee for the South Plant was \$89.15/ton, compared with the final rate of \$65.76/ton for FY 2009. For the North Plant, where the FPL contract is still in effect, the estimated fee of \$61.16/ton (FY 2010) only increased slightly from the FY 2009 final figure of \$60.84/ton. The weighted average service fee for FY 2010, used for monthly statements, is \$77.02/ton. This represents a 12% increase, compared with \$68.93/ton figure used for the FY 2010 budget (based on the March 31 estimate). Based on projected tonnage, this rate difference is estimated to create a budget deficit of \$8,803,000.

On February 17, 2010, the Director of Broward County Waste and Recycling Services (WRS) notified the RRB Executive Director (via e-mail) of the need for a budget transfer to handle this deficit, and the possibility that the transfer may need to go to the County Commission as a separate agenda item. The e-mail was followed by a verbal request that the Executive Director bring this matter to the Resource Recovery Board at its February 18 meeting. This discussion did not occur at the February meeting.

On March 3, 2010, the WRS Director notified the County Administrator and the Public Works Director (via e-mail) of a meeting the previous day with a RRB member, who expressed that the RRB had not been kept informed of the expirations of the contracts between Wheelabrator and FPL, and who was concerned with the potential impacts on the reserve funds.

On May 7, 2010, the WRS Director wrote a memorandum to the RRB Executive Director describing the annual energy adjustments, the impact of the expiration of the FPL contract with the operator of the South Plant, and the need to bring a request to the County Commission for a budget modification.

At the subsequent meeting of the Resource Recovery Board, on May 19, 2010, an Addendum to the Agenda included a table entitled "Estimated Fiscal Impact of Events

on Resource Recovery System Fund Reserves for fiscal years 2009-2015". The issue of the increase of service fees, and the resulting proposed transfer from the Reserve Fund, was discussed; however, no action was taken at that meeting.

The monthly invoices for FY 2010, including this increase, have been paid to date out of budgeted funds. However, a transfer from reserves of the Resource Recovery Fund is needed to continue paying these higher invoices for the balance of the fiscal year. Specifically, the existing budgeted funds will be sufficient to pay the July invoice, but not the August invoice. This requested transfer of \$8,803,000 will cover the increased amount for projected tonnage during the balance of FY 2010.

#### Beyond FY 2010

Projected payments for FY 2011, under the increased rates, have already been incorporated in the proposed Resource Recovery Fund budget. This budget also accounts for the expiration of the FPL contract for the North Plant on December 31, 2010. Therefore, no additional mandatory budget transfers are anticipated for FY 2010 or FY 2011.

Because the service agreement for the South Plant expires on August 1, 2011, and the service agreement for the North Plant expires on March 22, 2012, the Resource Recovery Board has initiated negotiations for a new service agreement covering both waste-to-energy plants. In recent drafts of this agreement, the annual energy adjustment factor based on the sales price of electric power has been deleted, and discussions are underway regarding how the operators and the District will share revenues from the sale of electricity. The Resource Recovery Board is proceeding towards completion of the new agreement far in advance of either expiration date.

The total unrestricted net assets (fund reserves) ending balance for FY 2010 is projected to be approximately \$48,850,000, after the transfer of \$8,803,000 for the annual energy adjustment. Fund reserves are not expected to continue increasing, as they have in the past, once a new Interlocal Agreement among District participants is in place. Programmed capital projects, and optional programs being explored by the Resource Recovery Board, would also impact the level of reserves in upcoming years.

TABLE A  
 Broward Solid Waste Disposal District  
 Service Fees for FY1992 – FY2010

| Year               | Plant | Annual Energy Adjustment (\$\$/ton) | Initial Energy Adjustment (\$\$/ton) | Net Service Fee (\$\$/ton) |
|--------------------|-------|-------------------------------------|--------------------------------------|----------------------------|
| 1992               | North | 0.00                                | 5.95                                 | 51.08                      |
|                    | South | 14.25                               | 0.00                                 | 55.79                      |
| 1993               | North | 0.00                                | 5.95                                 | 51.34                      |
|                    | South | 14.89                               | 0.00                                 | 56.95                      |
| 1994               | North | 0.00                                | 5.95                                 | 52.40                      |
|                    | South | 14.96                               | 0.00                                 | 57.49                      |
| 1995               | North | 0.00                                | 5.95                                 | 52.00                      |
|                    | South | 15.08                               | 0.00                                 | 58.22                      |
| 1996               | North | 0.00                                | 5.95                                 | 53.92                      |
|                    | South | 13.92                               | 0.00                                 | 58.01                      |
| 1997               | North | 0.00                                | 5.95                                 | 53.88                      |
|                    | South | 15.19                               | 0.00                                 | 59.80                      |
| 1998               | North | 0.00                                | 5.95                                 | 53.00                      |
|                    | South | 14.13                               | 0.00                                 | 58.88                      |
| 1999               | North | 0.00                                | 5.95                                 | 53.33                      |
|                    | South | 14.80                               | 0.00                                 | 59.89                      |
| 2000               | North | 0.00                                | 5.95                                 | 54.16                      |
|                    | South | 11.99                               | 0.00                                 | 57.67                      |
| 2001               | North | (0.35)                              | 5.95                                 | 55.57                      |
|                    | South | 11.75                               | 0.00                                 | 58.55                      |
| 2002               | North | (0.32)                              | 5.95                                 | 55.47                      |
|                    | South | 10.33                               | 0.00                                 | 57.48                      |
| 2003               | North | (0.28)                              | 5.95                                 | 55.99                      |
|                    | South | 9.71                                | 0.00                                 | 57.32                      |
| 2004               | North | (0.58)                              | 5.95                                 | 56.33                      |
|                    | South | 11.76                               | 0.00                                 | 59.81                      |
| 2005               | North | (0.47)                              | 5.95                                 | 57.40                      |
|                    | South | 13.39                               | 0.00                                 | 62.38                      |
| 2006               | North | (0.40)                              | 5.95                                 | 59.94                      |
|                    | South | 12.86                               | 0.00                                 | 63.42                      |
| 2007               | North | (2.28)*                             | 5.95                                 | 58.83                      |
|                    | South | 14.31                               | 0.00                                 | 65.71                      |
| 2008               | North | (0.09)                              | 5.95                                 | 62.69                      |
|                    | South | 14.86                               | 0.00                                 | 67.61                      |
| 2009               | North | (1.98)                              | 5.95                                 | 60.84                      |
|                    | South | 12.64                               | 0.00                                 | 65.76                      |
| 2010<br>(estimate) | North | (1.58)                              | 5.95                                 | 61.16                      |
|                    | South | 36.13                               | 0.00                                 | 89.15                      |

\*High value caused by turbine generator outage lasting 48 days in 2007.

Source: Wheelabrator's North & South Annual Settlement Statements (1992-2009)  
 Wheelabrator letter dated July 31, 2009 (2010)