

THE STATE OF NEW HAMPSHIRE  
NUCLEAR DECOMMISSIONING FINANCING COMMITTEE  
DOCKET NO. NDFC 2002-3

ORDER NO. 2

As part of the sale of a majority interest in Seabrook Station to FPL Energy Seabrook, LLC (FPLE Seabrook), the Nuclear Decommissioning Financing Committee (NDFC or Committee) is responsible for determining that the payments to the decommissioning fund at the time of sale are made, pursuant to RSA 162-F:21-a, the so-called "Top-off" provision. In the Final Report and Order in NDFC Docket 2002-2 (Final Order) the Committee established the process to be used to confirm compliance with the Top-off obligation. This Order confirms compliance and directs distribution of funds being held pending fulfillment of the Top-off obligation. Because this Order memorializes compliance with requirements established by a prior order of the Committee, the filings of the parties are sufficient basis for the Committee to confirm compliance, and no public hearing is required.

Pursuant to RSA 162-F:21-a, "sufficient moneys shall have been paid into the fund, so that the balance of the fund for that ownership interest shall equal or exceed the minimum decommissioning funding requirements of the Nuclear Regulatory Commission for that ownership interest" before the corresponding ownership interest may be sold. Payment of a "Top-off" at the time of sale is to be made to meet the statutory obligation. Because the exact value of the decommissioning fund cannot be established on a sale date, the Final Order required the establishment of an escrow fund to be used, post-closing, to make certain the requirements of RSA 162-F:21-a are met. Final Order at 28. All of the Selling Seabrook Joint Owners and FPL Energy Seabrook, LLC are parties to the Top-off Escrow (Escrow Parties). The Final Order also established the process for a

final determination of each Top-off obligation, and the final distribution from the Top-off Escrow Agreement in Procedures for Transfer of Top-off Amount and Fund Balances, NDFC Docket 2002-2 Exhibit 24 (Top-off Procedures).

The Top-off Escrow was executed on October 27, 2002, with the State Treasurer as escrow agent. NDFC docket 2002-2 Exhibit 25. On November 1, 2002, FPLE Seabrook purchased approximately 88.2% of Seabrook Station and \$10 million was deposited in the Top-off Escrow: \$5 million from the Top-off obligation as calculated on November 1, 2002, and \$5 million from the Selling Seabrook Joint Owners as provided for in the Top-off Procedures.

By agreement of the Escrow Parties, the final determination of the Top-off obligation was postponed to allow sufficient time for Howe, Riley & Howe, auditors for Citizens Bank New Hampshire, to review the calculation of the decommissioning fund balance on the date of sale. On December 16, 2002, the Escrow Parties accepted that the review of Howe, Riley & Howe correctly presented the decommissioning fund balance of each Seabrook Joint Owner on date of sale, November 1, 2002. Based on the Howe, Riley & Howe review, FPLE Seabrook, in the capacity of the managing agent of Seabrook Station, calculated the final Top-off payment obligation of each Selling Seabrook Joint Owner, and the amount to be paid from the Top-off Escrow to FPLE Seabrook. Dated December 16, 2002, the calculation of the Top-off payments is made part of this Order as Attachment 1. The Top-off obligation reconciliation is provided in the ten-page Attachment 2. On December 18, 2002, the Escrow Parties agreed that the final distribution set forth in Attachment 1 was correct, and requested that this committee direct the State Treasurer to distribute the balance of the Top-off Escrow under the terms

of the Top-off Procedures. The request of the Escrow Parties is provided as Attachment 3.

The final Top-off obligation, as set forth in Attachment 1, has been reviewed by the Committee and found to be acceptable. Accordingly, the Committee approves the determination of the Top-off obligation as set forth in Attachment 1 and finds it appropriate for the State Treasurer, acting as escrow agent for the Top-off Escrow, to release all monies held in escrow to meet the RSA 162-F:21-a obligations. The final distribution to the parties is to be adjusted to reflect allocation of income and expenses, as provided for in the Escrow Agreement Section 4, and to account for the taxes paid from the escrow fund for Canal Electric Company (\$2,000), The Connecticut Light and Power Company (\$7,000), and New England Power Company (\$17,000) as part of the reconciliation of the decommissioning fund performed in response to the findings of Howe, Riley & Howe.

**Based on the foregoing, it is hereby**

**ORDERED**, that State Treasurer transfer \$4,425,506 from the Top-off escrow into FPLE Seabrook's Nonqualified Decommissioning Fund, as adjusted to reflect income and expenses pursuant to the Escrow Agreement; and it is

**FURTHER ORDERED**, that the State Treasurer transfer to each Selling Seabrook Joint Owner its share of any funds remaining in the escrow account, pursuant to Attachment 1 and adjusted to reflect income and expenses pursuant to the Escrow Agreement; and it is

**FURTHER ORDERED**, that once the transfers are made from the Top-off Escrow, the State Treasurer shall terminate the escrow; and it is

**FURTHER ORDERED**, that all of the RSA 162-F:21-a funding obligations of United Illuminating Company, Great Bay Power Corporation, New England Power Company, Canal Electric Company, Little Bay Power Corporation, New Hampshire Electric Cooperative, Inc., The Connecticut Light and Power Co. and North Atlantic Energy Corporation have been fully satisfied once the State Treasurer makes the final distributions pursuant to this Order.

By Order of the Nuclear Decommissioning Financing Committee this 30th day of December, 2002.

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Thomas B. Getz  
Chairman