

THE STATE OF NEW HAMPSHIRE  
NUCLEAR DECOMMISSIONING FINANCING COMMITTEE  
DOCKET NO. NDFC 2006-1

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**REPORT AND ORDER**

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Concord, New Hampshire  
December 19, 2006

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I. SUMMARY OF FINDINGS

The Nuclear Decommissioning Financing Committee (NDFC or Committee) conducted the annual review of the Decommissioning Trust Fund (Trust, Decommissioning Trust or Fund) as required by RSA 162-F:22. The Committee considered the evidence presented and made the following findings to ensure the prompt, safe, and orderly decommissioning of Seabrook Station can occur.

- 15 1. The funding date will remain 2026.
- 16 2. The projected cost of decommissioning is \$699.7 million, when expressed  
17 in 2006 dollars.
- 18 3. The inflation adjustment applied to the contributions in the schedule of  
19 payments will remain 3.0%, as set in NDFC Docket 2003-1.
- 20 4. The escalation adjustment applied to the cost of decommissioning in the  
21 schedules of payments will remain 4.5%, as set in NDFC Docket 2003-1.
- 22 5. The funding assurances from FPLE Seabrook, LLC, established in NDFC  
23 Docket 2002-2, will remain unchanged.
- 24 6. The funding assurance escrow account established in NDFC Docket 2003-  
25 1 will be determined using the end of the operating license as the  
26 termination date. The contributions to the escrow in 2007 are set forth in  
27 this Order.
- 28 7. The earnings assumptions for equity investments reflected in the schedule  
29 of payments will increase from 9.5% to 9.8%, effective after 2008.

1 II. PARTIES AND THEIR POSITIONS

2 The entities granted full party status were the Massachusetts Municipal Wholesale  
3 Electric Company (MMWEC), the Seacoast Anti-Pollution League (SAPL), and FPL  
4 Energy Seabrook, LLC, as managing agent of Seabrook Station (FPLE or Managing  
5 Agent). The parties produced a Stipulation addressing all issues (Exhibit No. 2), with  
6 FPLE and SAPL supporting all provisions of the Stipulation. MMWEC supported all  
7 provisions of the Stipulation except the position of the other parties that FPLE's current  
8 funding assurances are sufficient. Exhibit No. 2 at Page 4, Section 3.6.

9 Taunton Municipal Lighting Plant (Taunton) and Hudson Light and Power  
10 Department (Hudson), both owners of minority interests in Seabrook Station, were  
11 notified of the Docket by the Order of Notice and NDFC Docket 2006-1 Order No. 1, but  
12 did not choose to participate. In the absence of direct participation, the NDFC assumes  
13 that Taunton and Hudson were represented by the Managing Agent for Seabrook Station.

14 III. PROCEDURAL HISTORY

15 On March 31, 2006, the Seabrook Station 2006 Annual Report (2006 Annual  
16 Report) was filed (Exhibit No. 1). The Order of Notice for this docket was issued on  
17 April 27, 2006. Timely notice of the Docket was provided by publication in newspapers  
18 on May 9, 2006, and filing with the Town of Seabrook Selectmen's Office on May 8,  
19 2006. The first pre-hearing conference was held on May 30, 2006. On August 14, 2006,  
20 the NDFC issued Order No. 1 adopting the procedural schedule and scope suggested by  
21 the parties. The parties held pre-hearing conferences prior to the public hearing for the  
22 purpose of identifying areas of agreement. A Stipulation of the Parties (Stipulation) was  
23 filed on September 7, 2006, and the signed Stipulation (Exhibit No. 2) was presented at  
24 the public hearing held in Concord on September 21, 2006. Final exhibits from FPLE in

1 response to requests of the Committee at the hearings were filed with the NDFC on  
2 October 17, 2006.

3 A public hearing was held on September 21, 2006, at the Public Utilities  
4 Commission in Concord. One witness appeared during the public hearing: James Peschel,  
5 FPLE Seabrook Regulatory Programs Manager. Mr. Peschel testified to the substance of  
6 the Stipulation and addressed questions from the NDFC Members. In lieu of additional  
7 testimony the NDFC accepted the following sworn Affidavits:

- 8 • Affidavit of James Peschel, Regulatory Programs Manager, FPL Energy,  
9 Seabrook, LLC (Exhibit No. 2, Attachment D)
- 10
- 11 • Affidavit of Moray P. Dewhurst, Vice President, Finance, and Chief Financial  
12 Officer, FPL Group, Inc. (Exhibit No. 2, Attachment C)
- 13

14 The following exhibits were accepted at the hearing in Concord:

- 15 Exhibit 1. FPL Energy Seabrook Station 2006 Annual Filing
- 16 Exhibit 2. Stipulation of the Parties, Docket 2006-1
- 17 Exhibit 3. January 20, 2006, Independent Auditor's Report on  
18 Seabrook Nuclear Decommissioning Financing Fund,  
19 December 31, 2005
- 20
- 21 Exhibit 4. January 20, 2006, Independent Auditor's Report on  
22 Seabrook Nuclear Decommissioning Financing Fund,  
23 Trust B (Fund #2), December 31, 2005
- 24
- 25 Exhibit 5. January 20, 2006, Independent Auditor's Report on  
26 Seabrook Nuclear Decommissioning Escrow Fund,  
27 December 31, 2005
- 28
- 29 Exhibit 6. May 17, 2006, Certificate of the New Hampshire State Treasurer  
30 concerning the earnings assumptions for the Decommissioning  
31 Trust
- 32
- 33
- 34 Exhibit 7. May 17, 2006, Certificate of the New Hampshire State Treasurer  
35 concerning the earnings assumptions for the Funding Assurance  
36 Escrow
- 37

1 On October 17, 2006, Exhibit 8 was filed in response to a hearing request. Exhibit 8  
2 reflects the amount by which the statutory capacity limitations at the Yucca Mountain  
3 Repository would have to be increased in order to accept spent fuel from Seabrook  
4 Station, assuming a 2030 cessation of operation at Seabrook Station.

5 On October 9, 2006, the Preliminary Report and Order (PRO) was issued. The  
6 PRO was provided to parties and delivered to the Seabrook Town Hall on that date. By  
7 written submission on October 19, 2006, FPLE requested reconsideration of the  
8 preliminary finding in the PRO that FPLE should deposit 75% of its 2007 obligation in  
9 the funding assurance escrow, with the remaining 25% deposited in the Decommissioning  
10 Trust. Pursuant to RSA 162-F:21 IV, a public hearing was held in Seabrook on the  
11 evening of November 9, 2006 (Seabrook Hearing). Timely Notice of the Seabrook  
12 Hearing was published on October 16 and 17, 2006.

13 The following exhibits were accepted during the public hearing in Seabrook:

14 Exhibit 9. Letter dated October 19, 2006, from Attorney Roach to counsel for the  
15 NDFC presenting FPLE's comments regarding the PRO.

16 Exhibit 10. An affidavit of publication dated November 6, 2006, confirming  
17 publication of notice of the public hearing in Seabrook.

18 Exhibit 11. Supplemental Affidavit of Moray P. Dewhurst dated November 3, 2006,  
19 discussing, among other things, the recently approved investment plan for  
20 the reallocation of equity investments, through year-end 2008, to include  
21 mid/ small cap and international equities.

22 Exhibit 12. Letter dated October 16, 2006, to State Treasurer Ablowich from Ms.  
23 Judith J. Kahn regarding the Treasurer's approval of the appointment of a  
24 fund manager for small- to mid-cap domestic equities held in the Seabrook

1 Nuclear Decommissioning Financing Fund.

2 Exhibit 13. Letter dated October 16, 2006, to State Treasurer Ablowich from Ms.  
3 Judith J. Kahn regarding the Treasurer's approval of the appointment of a  
4 fund manager for international equities held in the Seabrook Nuclear  
5 Decommissioning Financing Fund.

6 Exhibit 14. Letter dated October 20, 2006, to State Treasurer Ablowich from Ms.  
7 Judith J. Kahn regarding the Treasurer's approval of the transfer of assets  
8 held in the Seabrook Nuclear Decommissioning Financing Fund.

9 At the Seabrook Hearing, FPLE witness John Aubrecht testified about the changes  
10 in management of FPLE Trust monies and the changes in allocations among the equity  
11 funds that have occurred since the September 21, 2006, hearing in Concord.

12 After the Seabrook Hearing, the NDFC held a public meeting at which FPLE presented  
13 information about the expanded Independent Spent Fuel Storage Installation (ISFSI). Mr.  
14 Nord of the C-10 Foundation also addressed the NDFC about his organization's concerns  
15 with the design of the ISFSI, and he requested the opportunity to share additional  
16 information as part of the next docket.

#### 17 IV. DISCUSSION

18 Each year the Committee must review, among other things, the performance of the  
19 Decommissioning Trust and the adequacy of funding assurances. As a result of this  
20 review, the Committee altered the payment schedule and changed the funding assurance  
21 escrow to ensure adequate funding for decommissioning as provided for by RSA 162-  
22 F:22, II. During this annual review the schedules of payments were adjusted to ensure full  
23 funding of the decommissioning obligation for the prompt decommissioning of Seabrook  
24 Station at the end of its operating life. Each of the areas reviewed is discussed in the

1 following sections.

2 A. The Projected Cost of Decommissioning

3 The projected cost of decommissioning was established in NDFC Docket 2003-1  
4 at the completion of a comprehensive review of the Seabrook Station decommissioning  
5 plan and cost estimate, pursuant to RSA 162-F:22, I. The projected cost of  
6 decommissioning is defined as the current best estimate of the cost to promptly  
7 decommission Seabrook Station at the end of its expected operating life in 2026, as  
8 determined in NDFC Docket No. 2003-1. The decommissioning cost is escalated  
9 annually to maintain a current projected cost of decommissioning. The decommissioning  
10 plan accepted in NDFC Docket 2003-1 will next be reviewed in 2007.

11 In NDFC Docket 2005-1, the NDFC directed FPLE to address the in-service  
12 assumptions for the Yucca Mountain repository, the adequacy of the planned capacity to  
13 accommodate Seabrook Station's spent fuel, and alternatives to Yucca Mountain. The  
14 purpose of this review was to provide the NDFC with additional information needed to  
15 determine if there should be any changes in the funding schedule's assumptions regarding  
16 the availability of a federal repository for Seabrook spent fuel and high-level radioactive  
17 waste. The Committee also stated that it would address FPLE Seabrook's planning for an  
18 expanded ISFSI in 2006. Docket 2005-1 Final Order at 6. Under current design capacity,  
19 the Yucca Mountain repository will have insufficient capacity to accept waste from  
20 Seabrook Station. Exhibit No. 8, The NDFC is required to ensure that the full cost of  
21 prompt decommissioning is paid by the Seabrook owners. RSA 162-F:21-C. Planning  
22 for a larger ISFSI and determining the associated costs will meet that obligation, even if  
23 the Department of Energy (DOE) fails to meet its obligations to accept Seabrook spent  
24 fuel and Greater Than Class C (GTCC) waste within a reasonable and reliable timeframe.

1 The Committee also notes that, as of the date of this Order, the dry cask system that FPLE  
2 intends to procure for the ISFSI has not received a Certificate of Compliance from the  
3 NRC. As described below, therefore, the Committee will instruct FPLE to provide a  
4 status on the licensing of this system in the 2007 comprehensive report.

5 FPLE Seabrook asserts that it expects the DOE to meet its obligations to accept  
6 transfer of spent fuel from the Seabrook Station. To meet the concerns of the NDFC, the  
7 Stipulation (Exhibit No. 2) proposes that the 2007 Decommissioning Plan assume the  
8 ISFSI operates until 2101. The Committee finds that this is an appropriate way to ensure  
9 full funding of decommissioning, even with continued delays by the federal government  
10 in meeting the obligation to provide a repository for spent fuel and GTCC waste. The  
11 NDFC directs FPLE to include, as part of the 2007 Annual Report, a status report on the  
12 NRC licensing of the dry cask storage facility proposed for the Seabrook ISFSI.

13 B. Public Information

14 In the Final Report and Order in NDFC Docket 2005-1, FPLE was instructed to  
15 advise the Committee of efforts to inform the public of their ISFSI plans. During the  
16 public hearing in Concord, Mr. Peschel testified about FPLE Seabrook's communication  
17 efforts to date with local and state officials regarding an expanded ISFSI. During the  
18 public meeting in Seabrook FPLE's efforts to inform the public on this topic were  
19 discussed, and members of the Committee expressed concern about the adequacy of the  
20 public information effort.

21 The Committee recognizes that communications with the local community is the  
22 responsibility of FPLE. However, the lack of response to requests from the NDFC for  
23 greater public outreach creates a concern about management attentiveness to this issue.  
24 Furthermore, a lack of outreach can engender distrust on the part of local citizens and



1 potentially affect the annual review process conducted by this Committee. The Committee  
2 notes that other sites, such as at Yucca Mountain, a facility with far more restrictive access  
3 requirements than Seabrook Station, provide on-site information sessions to any interested  
4 member of the public in an effort to limit misinformation.

5 For these reasons, the NDFC again urges FPLE Seabrook to expand its  
6 communication with citizens and public officials so plans for the ISFSI and the safety  
7 characteristics of dry cask storage will be widely understood. The Committee directs  
8 FPLE to include an update on this public information program in each future annual  
9 report.

#### 10 C. Funding Date

11 The Committee must establish the funding date, that is, the date on which  
12 contributions into the Decommissioning Trust may end because “the fund shall have  
13 sufficient monies to complete decommissioning” on the schedule approved by the NDFC.  
14 RSA 162-F:14, V. In NDFC Docket 2003-1, the Committee established the funding date  
15 as October 2026, the projected date of the expiration of the Seabrook Station operating  
16 license at that time. The Committee also held that if a request to change the funding date,  
17 based on a later license termination date, were made after December 31, 2005, the request  
18 would be considered if accompanied by a revised decommissioning study. NDFC Docket  
19 2003-1 Final Order at 46. In December 2005, the Nuclear Regulatory Commission (NRC)  
20 reissued the Seabrook Operating License with a termination date of 2030. This change  
21 reflects the so-called “recapture” of license life that expired before the unit began  
22 commercial operation. The parties request that the 2030 license termination date be  
23 incorporated in the decommissioning plans to be submitted in 2007, in place of the current  
24 termination date of 2026.

1           The Committee finds it appropriate for the 2007 decommissioning schedule of  
2 payments to be calculated using 2026 as the date when Seabrook Station will end its  
3 operating life. The NDFC also directs that 2030 be used as part of the comprehensive  
4 decommissioning plan that will be reviewed by the Committee in 2007. As part of the  
5 2007 comprehensive review, the NDFC will determine the funding date for each Seabrook  
6 owner.

7           D. Earnings and Inflation Assumptions: Escalation Adjustment

8           The parties recommend that the NDFC continue using, for purposes of establishing  
9 a schedule of payments, an inflation assumption of 3% for annual contributions with an  
10 escalation adjustment of 4.5% applied to the decommissioning cost estimate, as adopted in  
11 NDFC Docket 2003-1. Exhibit No. 2. The reasons for adopting each assumption and  
12 escalation adjustment are fully detailed in the Final Report and Order, NDFC Docket  
13 2003-1, and will not be repeated here.

14           The parties request that the Committee change the earnings assumption for equity  
15 investments available to Seabrook owners from 9.5% to 9.8% to be effective after  
16 December 2008. This change is proposed to reflect a gradual conversion of the portfolio  
17 to include greater diversification of equity investments, which are assumed to have higher  
18 earnings. Specifically, the revised investment guidelines, approved by the Treasurer in  
19 August 2006, now allow investments in large cap, mid- and small cap, and international  
20 equities. In support of this change, FPLE provided a report from Prime Buchholz &  
21 Associates and Affidavits from Moray P. Dewhurst, Vice President, Finance and Chief  
22 Financial Officer of FPL Group. (Stipulation Attachment C and Exhibit No. 11). FPLE  
23 proposed that the Committee recognize its plans for a two-year conversion of its portfolio  
24 to include these new investment options. Mr. Dewhurst provided an overview of FPLE's

1 program to move investments to meet the target equity allocation. Dewhurst Affidavit,  
2 Par. 18, 19 (Stipulation Attachment G), Exhibit No 11. FPLE proposed to assume  
3 earnings of 9.5% through 2008, and 9.8% starting January 1, 2009.

4 During the Seabrook Public Hearing FPLE presented Exhibit No. 11, detailing the  
5 actions taken to reallocate Trust investments. Also, Mr. Aubrecht testified regarding the  
6 actions taken by FPLE to implement a program for systematic transition of monies to  
7 meet the company's target allocations in order to achieve an assumed 9.8% rate of return  
8 on equity investments.

9 Since the public hearing in Concord, FPLE made significant progress towards  
10 meeting its goals for reallocation of equity holdings as follows:

- 11 1. FPLE formally approved a detailed plan for its investment allocation as  
12 presented in the supplemental affidavit of Mr. Moray P. Dewhurst (Exhibit No.  
13 11);
- 14 2. New fund managers were appointed, with the approval of the State Treasurer,  
15 to manage both mid/ small cap and international equity investments (Exhibits No.  
16 12 and 13);
- 17 3. The State Treasurer approved transfers of funds in excess of the 20% of the  
18 investment portfolio, as specified in the Investment Guidelines, for the sole  
19 purpose of implementing the investment allocation changes in the FPLE plan  
20 (Exhibit No. 14); and,
- 21 4. Monies were transferred into the mid/ small cap equity fund. (Exhibit No. 11)

22 The NDFC considers the plan identified by FPLE, including the milestones, to be  
23 a commitment by FPLE to use all appropriate means to complete the plan on the schedule  
24 presented in this docket. Therefore, as a result of the steps taken and the schedule

1 presented by FPLE to meet the target equity allocations necessary for the higher assumed  
 2 rate of return, the Committee finds that the investment earnings assumptions for each of  
 3 the Decommissioning Trust funds will continue to be as shown in the following chart  
 4 through the end of 2008:

5 INVESTMENT EARNINGS ASSUMPTION 2007-2008

Fund	Investments	Nominal	Real	Basis
1A	Taxable Bonds	6.0%	3.0%	Pre-tax
1B	Core Stocks	9.5	6.5	Pre-tax
2	Taxable Bonds	6.0	3.0	After-tax
3	Tax-Exempt Bonds	4.8	1.8	After-tax
4	Cash/Short-Term	3.5	0.5	After-tax
5	Core Stocks	9.5	6.5	After-tax
Inflation		3.0		Pre-tax

6  
 7 The current funding schedule shall assume, starting in 2009, however, the earnings  
 8 assumptions for equity investments for FPLE will change to 9.8% with no change in  
 9 other earnings assumptions.

10 The Committee will closely monitor future investment activities to determine if the  
 11 milestones identified in the plan are being achieved and will revisit these investment  
 12 assumptions again during the 2007 four-year review. As part of the 2007 Annual Report  
 13 and Comprehensive Review, FPLE is to detail progress made to achieve the milestones,  
 14 and provide a full explanation for deviations in the projected schedule for conversion of  
 15 the investments held in the Trust.

16 E. Schedule of Payments: December Re-set and Earnings Assumptions

17 In NDFC Docket 2002-2, the NDFC established the practice of setting the

1 schedule of payments beginning on January 1 of the following year based on a November  
2 30 actual Fund balance, adjusted to estimate the end-of-year balance as closely as  
3 possible. In NDFC Docket 2004-1, the year-end calculation was further refined. This  
4 approach permits the best full-year estimate of earnings and expenses when setting  
5 contribution requirements for the next year. The NDFC will continue this practice.

6 Consistent with prior orders, the calculation of the 2007 funding schedules will be  
7 based on the Decommissioning Trust and funding assurance escrow balances as of  
8 November 30, 2006, plus the December contribution to the funding assurance escrow,  
9 plus assumed earnings for December on both the Decommissioning Trust and funding  
10 assurance escrow balances, minus the estimated expenses applicable to both.

11 F. Funding Assurance Escrow

12 In the stipulation the parties request the following changes to the Funding  
13 Assurance Escrow (Escrow):

- 14 • Extension of the termination date of the escrow from 2007 to the end of  
15 license life;
- 16 • Application of the Investment Guidelines of the Decommissioning Trust to  
17 the Escrow; and,
- 18 • Automatic release of 80% of a Seabrook Owner's Escrow if  
19     ▪ the NRC extends the Operating License to 2050, and  
20     ▪ the Owner's Decommissioning Trust balance in 2050 is projected to be  
21       133% of that owner's decommissioning obligation (designated as "TLG  
22       Estimate") in 2050.

23  
24 Also, the parties request that MMWEC, Taunton, and Hudson be required to deposit 25%  
25 of their 2007 obligation into the Escrow, and that FPLE be permitted to deposit 100% of  
26 its 2007 obligation in the Escrow.

27 The NDFC finds it appropriate to continue the Escrow for the license life of  
28 Seabrook. The Escrow provides a vehicle for a prompt infusion of money into the

1 Decommissioning Trust should the Committee believe that it appropriate. With the  
2 Escrow funding assurance in place, the NDFC can immediately modify contributions into  
3 the Escrow in response to a change in circumstances without a full evidentiary hearing  
4 process. RSA 162:F22, III. The Escrow also provides the means for collecting  
5 decommissioning funds that can more readily be returned to Seabrook owners should the  
6 NDFC determine that the funds will not be needed to meet decommissioning obligations.  
7 The alternative to depositing money in the Escrow is making contributions to the  
8 Decommissioning Trust, where the funds must be held until all decommissioning  
9 activities are completed. RSA 162:F 22.

10 The Committee does not adopt the proposed change in investment standards. The  
11 Escrow is a funding assurance and is intended to be ready cash, available for transfer into  
12 the Decommissioning Trust in the event of premature permanent cessation of operation or  
13 other significant change in circumstances. Permitting the investment of these monies in  
14 other instruments could delay transfers to the Decommissioning Trust or reduce the  
15 amount of money available. Also, the Committee is, at this time, unwilling to have this  
16 funding assurance experience the fluctuation in value that can occur with the  
17 Decommissioning Trust. As we have seen in the past few years, market performance  
18 rarely meets expectations. While the following chart presents changes in contributions  
19 due to adjustments in assumptions approved by the NDFC, and in particular the change in  
20 investment strategies post-shutdown, it demonstrates the near-term volatility of earnings  
21 of the Decommissioning Trust.

22

1

PROJECTED VS. ACTUAL EARNINGS

YEAR	ACTUAL	2002 ORDER UPDATE PROJECTED	2003 ANNUAL REPORT PROJECTE D	2004 ANNUAL REPORT PROJECTED	2005 ANNUAL REPORT PROJECTED	2006 ANNUAL REPORT PROJECTED
2006	365.2 <sup>1</sup>	406.2	370.4	370.5	369.8	365.2
2005	339.5	362.1	340.3	339.3	343.5	
2004	321.9	321.8	312.5	310.3		
2003	294.8	285.0	286.6			
2002	246.7	251.4				

2

3 While the Decommissioning Trust is invested with a forty-year plan, the Escrow is  
4 expected to be available for immediate use. The different purposes for these funds require  
5 different investment strategies.

6 As for the requested automatic release feature of the escrow, the Committee  
7 recognizes that, if Seabrook operates until 2050, the additional twenty years of earnings  
8 will likely grow the fund well past the projected cost of decommissioning at the end of  
9 licensed life. However, the Committee also notes that Seabrook Station will not seek the  
10 twenty-year license extension until 2010, and that, typically, the NRC review process  
11 takes two years. With the determination of license extension at least five years away, the  
12 Committee is presently disinclined to establish a formula for releasing Escrow funds.  
13 While the parties provided a thoughtful method for release of Escrow monies, the  
14 Committee concludes that it is premature to consider adopting a formula for automatic  
15 release from the Escrow. The Committee believes it should retain full discretion to  
16 determine when the Escrow money should be returned to Seabrook owners. At the same  
17 time, the NDFC may employ the proposed release formula as a *guideline* for future release  
18 of Escrow funds.

19 The Committee finds it appropriate for Taunton, Hudson, and MMWEC to  
20 continue to deposit 25% of their 2007 decommissioning contribution in the Escrow. In

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<sup>1</sup> As estimated in the stipulation

1 the PRO the Committee indicated that it would be reasonable to require FPLE to deposit  
2 25% of its 2007 obligation in the Trust, and 75% in the Escrow. On October 19, 2006,  
3 FPLE sought reconsideration of the PRO. At the Seabrook Hearing, FPLE witness  
4 Aubrecht urged that 100% of FPLE's obligation be paid into the Escrow. FPLE asserts  
5 this is appropriate because the NDFC has discretion to deposit the Escrow Funds in the  
6 Trust at any time, and once the license life of 2030 is recognized in the schedule of  
7 payments, FPLE's Decommissioning Trust would hold at least \$330 million, after all  
8 decommissioning expenses are paid.

9 After considering the arguments and evidence provided by FPLE, the Committee  
10 decided at the Seabrook Hearing that it was reasonable for FPLE to pay 100% of its 2007  
11 obligation into the Escrow. Inasmuch as the Committee retains the ability to unilaterally  
12 direct transfer funds from Escrow into the Trust. The Escrow is a funding assurance,  
13 established during a public hearing. Pursuant to RSA 162-F:22 III, once a funding  
14 assurance is established in a public hearing, the NDFC can modify payments by Seabrook  
15 Owners without the need to open a docket. With this funding assurance in place, the  
16 Committee has a vehicle to require a cash balance sufficient to meet the future  
17 decommissioning obligation. Thus, even if present decommissioning cost estimates are  
18 understated, or if Seabrook Station were to prematurely and permanently cease operation,  
19 the NDFC could use the Escrow to secure payment of the decommissioning obligation.  
20 For these reasons, the NDFC finds it appropriate to direct FPLE's 2007 obligation to the  
21 Escrow enhances the Committee's ability to secure full payment of the decommissioning  
22 costs. All payments directed to the Decommissioning Trust are to be made before monies  
23 are deposited in the Escrow.

24



1           G. Premature Cessation of Operation

2           The Committee requires the owners of Seabrook Station to provide funding  
3 assurances sufficient to ensure payment of their proportionate share of the full  
4 decommissioning cost of the facility, including full funding for decommissioning in the  
5 event of a premature cessation of operations. RSA-F:21. In prior dockets, the NDFC  
6 established funding assurances for FPLE (NDFC Docket 2002-2 Final Report and Order)  
7 and for all Seabrook Station owners (NDFC Docket 2003-1 Final Report and Order). In  
8 2001, the Committee decided that, in the event of a premature shutdown before 2015, the  
9 actual demolition of the Seabrook Station could be delayed until 2015. NDFC Docket  
10 2001-1 Final Report and Order. As that date nears, the Committee will consider adjusting  
11 the assumed commencement of physical decommissioning, but for this docket it will  
12 continue to use this planning tool to address the possibility of premature cessation of  
13 operations. Based on the record, the NDFC is unaware of any reason to expect premature  
14 cessation of operation of the Seabrook Station.

15           H. FPLE Funding Assurances

16           Funding assurances are required of all non-utility owners of Seabrook Station.  
17 RSA 162-F:21-a, III. The NDFC may impose a funding assurance requirement to ensure  
18 recovery of decommissioning costs in the event there is a premature permanent cessation  
19 of operation. RSA 162-F:19, IV. In NDFC Docket 2002-2, the NDFC established  
20 funding assurance requirements for FPLE, which included a guaranty by its indirect parent  
21 company, FPL Group Capital, Inc., which in turn is backed by a guaranty by the holding  
22 company, FPL Group, Inc. The NDFC monitors the strength of all funding assurances to  
23 determine whether any of the “triggers” established in NDFC Docket 2002-2, which  
24 would result in immediate payments by FPLE, are likely to be activated. The Committee

1 is satisfied that the financial health of FPL Group, Inc. and its utility subsidiary, Florida  
2 Power and Light Company, remains strong. Dewhurst Affidavit, Stipulation Attachment  
3 G. Similarly, Seabrook Station continues to have a higher capacity factor and fewer  
4 outages than the industry averages.

5 Based on the record, the NDFC holds that the existing FPLE funding assurances  
6 will remain in place until next reviewed, and finds that the funding assurances are  
7 adequate to meet FPLE's obligations, even in the event of a premature cessation of  
8 operation.

9 I. FPL/Constellation Merger

10 FPL Group and Constellation Energy announced merger plans early in 2006.  
11 Dewhurst Affidavit at 4 Stipulation Attachment G. On October 25, 2006, FPL Group  
12 announced that the proposed merger had been abandoned.

13 J. 2006 Filing Requirements & 2007 Comprehensive Review

14 FPLE is to file, no later than March 1, 2007, an independent auditors' report of the  
15 Seabrook Nuclear Decommissioning Financing Fund and Escrow Fund as of December  
16 31, 2006. In 2007, the NDFC will conduct the comprehensive review of decommissioning  
17 planning and cost projections required under RSA 162-F:22 I. In NDFC Docket 2005-1,  
18 FPLE was requested to submit the 2007 annual report including the decommissioning plan  
19 on February 1, 2007. (2005 Final Order at 19). Because this Docket is concluding later in  
20 the year than expected, FPLE is directed to make this filing by March 1, 2007. In addition  
21 to information previously required to be included, the annual report shall address fund  
22 performance through 30 days prior to its filing date.

23 The 2007 decommissioning plan should include the following assumptions:

- 24
- License termination of 2030.

- 1           ▪ ISFSI in operation until 2101 and all spent fuel and Greater-Than-Class C  
2           Waste removed by 2100 and 2101, respectively.
- 3
- 4           ▪ Costs should be presented in 2007 dollars.

5   The 2007 decommissioning plan should include a chart identifying every change from the  
6   2003 decommissioning plan, the cost impact of each change, and the source of the change,  
7   such as, NRC requirement, FPLE requested change, etc.

8

9   V. CONCLUSION

10           Based on the record, the Committee finds that the requirements of RSA 162-F for  
11   funding decommissioning will be met.

12

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

14

15           **ORDERED**, that the funding assurance provided by FPLE approved in the Docket  
16   2002-2 Final Report and Order shall remain in place and unchanged; and it is

17

18           **FURTHER ORDERED**, that the payments into the Decommissioning Trust and  
19   funding assurance escrow from Seabrook Station owners for 2007 shall be calculated in  
20   accordance with this Report and Order, the total of which will be determined by the  
21   calculation of a revised schedules of payment in December 2006; and it is

22

23           **FURTHER ORDERED**, that the schedules of payments for 2007 will be  
24   established in December 2006 using the assumptions and terms identified in this  
25   Preliminary Report and Order as recalculated using the Decommissioning Fund and  
26   Funding Assurance Escrow account market values as of November 30, 2006, plus the  
27   escrow account contributions scheduled to be made in December 2006, plus the estimated  
28   earnings assumptions for December 2006 approved in NDFC Docket 2005-1, minus the  
29   December 2006 estimated expenses approved in NDFC Docket 2005-1, and comports to  
30   the approved investment plan as detailed in Exhibit No. 11; and it is

31

32           **FURTHER ORDERED**, that the 2007 contributions into the Funding Assurance  
33   Escrow for Taunton, Hudson, and MMWEC shall be 25% of their respective total 2007  
34   contribution obligation and shall be paid into the Escrow only after all contributions to the  
35   decommissioning trust have been made for 2007; and it is

36

37           **FURTHER ORDERED**, that the 2007 contribution into the Funding Assurance  
38   Escrow by FPLE shall be 100% of its total 2007 contribution obligation, and shall be paid  
39   into the Funding Assurance Escrow no later than June 30, 2007; and it is

40

1           **FURTHER ORDERED**, that payments into the Funding Assurance Escrow are  
2 funding assurance obligations, and are not a schedule of payment obligations of the  
3 Seabrook owners. Payments into the Escrow are obligations imposed by the NDFC and  
4 fully enforceable by the Committee; and it is

5  
6           **FURTHER ORDERED**, that FPLE is to file, no later than March 1, 2007, an  
7 independent auditors' report on the Seabrook Nuclear Decommissioning Financing Fund  
8 and the Seabrook Escrow Fund as of December 31, 2006; and it is

9  
10          **FURTHER ORDERED**, that FPLE is to file the 2007 comprehensive report,  
11 including the decommissioning study conforming to this Order, no later than March 1,  
12 2007. The 2007 annual report is to include all information previously required by the  
13 NDFC in annual updates and detail on the Decommissioning Trust performance through a  
14 date that is 30 days prior to the filing of the annual report, and a detailed report on the  
15 information program designed to inform the public about the Seabrook ISFSI, including  
16 the safety of dry cask storage; and it is

17  
18          **FURTHER ORDERED**, that FPLE shall file with the Committee, on or before  
19 December 22, 2006, revised schedules of payments and funding assurance schedules  
20 conforming to the requirements of this Report and Order; and it is

21  
22          **FURTHER ORDERED**, that FPLE shall include in the 2007 Annual Report a  
23 detailed report, on the progress made to achieve the milestones that FPLE has established  
24 to reach the allocations of their equity investments required to warrant a 9.8% equity rate  
25 of return beginning in 2009. Further, FPLE shall include in the 2007 Annual Report a full  
26 explanation for deviations from the projected schedule for completing that conversion;  
27 and  
28  
29  
30  
31

[Remainder of the page is intentionally left blank.]

it is

**FURTHER ORDERED**, that the Seabrook Owners shall provide a revised Escrow Agreement, conforming to the findings herein, by December 22, 2006.

This Report and Order is released on December 19, 2006

\_\_\_\_\_/S/  
Thomas B. Getz  
Chairman Public Utilities Comm.

\_\_\_\_\_/S/  
Rep. Robert E. Introne  
State Representative

\_\_\_\_\_/S/  
Michael A. Ablowich  
State Treasurer

\_\_\_\_\_/S/  
Bob Odell  
State Senator

\_\_\_\_\_/S/  
Scott Bryer  
Department of Safety

\_\_\_\_\_/S/  
Willard F. Boyle  
Representative of the Town of Seabrook

\_\_\_\_\_/S/  
Jack Ruderman  
Governor's Office of Energy & Planning

Appointment unfilled at time of hearing]  
Health & Human Service