THE STATE OF NEW HAMPSHIRE
NUCLEAR DECOMMISSIONING FINANCING COMMITTEE
DOCKET NO. NDFC 2011-1

PRELIMINARY REPORT AND ORDER

Concord, New Hampshire
November 30, 2011

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PRELIMINARY REPORT AND ORDER

I. SUMMARY OF FINDINGS

In this docket the Nuclear Decommissioning Financing Committee (NDFC or Committee) conducted the four-year review required by RSA 162-F: 22. The Committee made the following determinations to ensure that the owners of the Seabrook Nuclear Station (Seabrook Station) provide sufficient funding to ensure the prompt, safe, and orderly decommissioning of Seabrook Station.

1) The projected cost of decommissioning will be $985.2 million, when expressed in 2010 dollars, which is the basis used by TLG Services, Inc. in the 2011 Seabrook Station Decommissioning Cost Analysis.
2) Onsite storage of spent nuclear fuel and Greater-Than-Class C (GTCC) radioactive waste in the Independent Spent Fuel Storage Installation (ISFSI) shall be assumed to be required until 2100, with the ISFSI dismantled in 2101.
3) The escalation adjustment applied to the schedules of payments will be 3.85%.
4) The funding date will be 2030.
5) The inflation adjustment applied to the schedules of payments will be 3%.
6) The coverage ratio, as defined in the Docket 2005-1 Final Report and Order, shall continue to be maintained with a minimum cash and cash equivalent investments equaling 3.3 times the decommission expense in each year after the surrender of the operating license for Seabrook Station from 2030 through 2036.

7) The schedules of payments beginning in 2012 shall be calculated in accordance with this order as supplemented and/or revised by the Final Report and Order to be issued following the public hearing in the Town of Seabrook.

8) The funding assurances from each Joint Owner of Seabrook Station (Seabrook Owner) will remain unchanged. The Settlement Agreement between the Seabrook Owners and the Department of Energy regarding expenses associated the management of spent nuclear fuel shall not be recognized as a funding assurance in accordance RSA 162.

9) The funds available from NextEra Energy Capital Holdings to NextEra Energy Seabrook under the terms of the Support Agreement shall be increased from $275.0 million to $287.9 million.

10) Contributions required to be made to the Seabrook Station decommissioning financing fund shall be made to the Escrow in 2012.

11) The schedules of payments shall be calculated assuming that all funds held in the Escrow for NextEra Energy Seabrook (NextEra), Hudson and Taunton are refunded to the respective Owner in 2013. The schedules of payments shall be calculated assuming that all funds held in Escrow for MMWEC are transferred to the Trust in 2013.

12) For purposes of determining the adequacy of decommissioning funding assurances, the earliest date by which decommissioning shall be assumed to start in the event of a premature cessation of operation shall be ten years from the date of the schedules of payments approved in this docket.

13) In the event of a permanent cessation of operations as a result of an accident causing damage covered under the Nuclear Electric Insurance Limited property damage policy, insurance proceeds remaining after the stabilization and decontamination of the reactor and site, in accordance with NRC regulations, shall be applied to any shortfall between the funds available in the Trust and the cost of decommissioning as determined by the post-shutdown decommissioning activities report (PSDAR). The Managing Agent shall provide at least 30 days notice to the NDFC before any reduction in this insurance is effective.

The Committee will make a determination on the appropriate assumed rates of return for decommissioning Trust investments to be included when generating the schedules of payments after the Seabrook Hearing. Other issues expressly reserved for additional consideration are discussed further herein. Any additional written information that the parties may elect to place on the record with respect to these matters must be submitted to the Committee December 15, 2011. These determinations are discussed in detail in this Preliminary Report and Order.

II. PARTIES AND THEIR POSITIONS

NextEra Energy Seabrook, LLC (“NextEra Energy Seabrook”), the Massachusetts Municipal Wholesale Electric Company (“MMWEC”), the Taunton Municipal Lighting Plant (“Taunton”), and the Hudson Light and Power Department (“Hudson”) requested full party status.

In NDFC Order No. 1, the NDFC granted full party status to NextEra Energy Seabrook, MMWEC, Taunton, and Hudson. Although separately represented by their own counsel, Taunton and Hudson delegated representation to NextEra during the public hearing on September 27, 2011.

The full parties produced a stipulation addressing all issues (Exhibit 2). The Stipulation presents the positions of the full parties on each issue the Committee must address. The Stipulation identified all of the exhibits that the full parties would present at the public hearing. The Stipulation was presented at the public hearing by the Managing Agent with representation that it accurately presented the positions of each Seabrook Owner. The executed Stipulation was received on October 13, 2011.

III. PROCEDURAL HISTORY

The Order of Notice for this docket was issued on February 7, 2011. Timely notice of the Docket was provided to the public by publication in newspapers. On May 31, 2011, NextEra filed the Seabrook Station 2011 Comprehensive Report. NextEra arranged for a copy of the 2011 Comprehensive Report to be available for public review at the Seabrook Public Library. Included with the Comprehensive Report was the 2011 Seabrook Station Decommissioning Cost Analysis prepared by TLG Services, Inc. (TLG Study).[1] The first pre-hearing conference was held on June 28, 2011, during which the parties agreed to a proposed procedural schedule and docket scope.

On July 7, 2011, the NDFC issued Order No. 1, adopting the proposed procedural schedule and scope. The parties participated in several pre-hearing conferences prior to the public hearings, and submitted the Stipulation of the Full Parties, which was presented at the public hearing on September 27, 2011. At the hearing, William Cloutier, TLG Services, Inc., testified about the decommissioning study and the escalation analysis

[1] The 2011 Comprehensive Report is Exhibit No. 1 in this docket.

produced by his firm; Michael O'Keefe, NextEra Energy Seabrook Licensing Manager, provided testimony regarding Seabrook Station's operating performance and the status of the license renewal application; John Mothersole, IHS Global Insight (IHS), provided testimony on the forecasting indices provided by his company that TLG used in their escalation analysis; Alan Smith, NextEra Energy Seabrook Business Director, testified to the Joint Owners Settlement Agreement with the Department of Energy on the costs for the management of spent nuclear fuel, the Joint Owners' proposed decrease in the assumed decommissioning escalation rate, the adequacy of funding for premature cessation of operations, and an update on the operations of other nuclear plants in the NextEra Energy fleet; and Alex Weiss, NextEra Vice President and Chief Investment Officer provided testimony on the Company's financial status, the decommissioning funding assurances, the Trust's earning assumptions, the Seabrook Owners' requests for a modification to the current rules on how allocations are assumed to be distributed over the life of the funding schedule, and NextEra's request that all but $10 million of its Escrow balance be refunded. James Kline, the MMWEC Treasurer, did not appear but provided an affidavit that avers to MMWEC's investment strategy, the long-term earnings assumptions, and MMWEC's positions on NextEra Energy Seabrook's request for release of Escrow funds, and the risks associated with NextEra's funding assurances.

IV. DISCUSSION

In this Docket, the Nuclear Decommissioning Financing Committee performed the comprehensive review of the decommissioning cost projections for Seabrook Station mandated by RSA 162-F:22, I. The comprehensive review is conducted every four years, and includes a full review of the decommissioning plan for Seabrook Station, as well as the annual review of the investment performance of the Trust. (RSA 162-F:22, II). In addition to revising the projected cost of decommissioning, the NDFC undertook a comprehensive review of all assumptions and findings used in determining the ultimate cost of decommissioning Seabrook Station, the schedules of payments into the fund, and the funding assurances that will secure the unfunded obligations

Since the last comprehensive review in 2007, the financial crisis that began in 2008 has taken a toll on the Trust. The Trust balances have recovered some of the ground lost but at year-end 2010 were still more than 20% behind the projections made in 2007 and lost another 5% through third quarter 2011. Another way of understanding the impact of the crisis is to look at the trend of projections for funding balances in 2020 from before the crisis began in 2006 through 2011. The following is an update of a table from the Docket 2010-1 Final Report and Order.

Chart 1
Decommissioning Funds Balances
As Percentage of Projected Decommissioning Cost

Year data produced	Year of decommissioning	2020 fully funded decommissioning cost	2020 projected decommissioning funds balance	Balance as % of 2020 cost
2006	2020	$1.3 Billion	$1.1 Billion	84.60%
2007	2020	$1.5 Billion	$1.0 Billion	66.60%
2008	2020	$1.38 Billion	$850.0 Million	61.50%
2009	2020	$1.5 Billion	$873.0 Million	58.20%
2010	2020	$1.5 Billion	$880.2 Million	58.60%
2011	2020	$1.5 Billion	$887.4 Million	59.7%

Source: Schedules of Payment for respective year.

Again, the chart graphically depicts the tremendous setback that the Trust took and the slow, bumpy recovery to date. As a result of the current state of the economy and the market, the Committee assesses proposed changes in the funding program even more cautiously and conservatively than in more normal times.

Since the last comprehensive update, the nuclear industry has also experienced the disaster at Fukushima, Japan. NextEra provided a summary of that accident and a high level comparison of Seabrook Station to Fukushima Daiichi and the factors that distinguish those plants and their location from Seabrook Station. (Exhibit A to Exhibit 7). The Committee's scope of concern with respect to the event is to determine any impact that it would have on the timing or cost of decommissioning Seabrook Station. Although the event and its impact on U.S. nuclear plants are still being assessed, the Committee will continue to monitor the situation. For purposes of this docket, the Committee accepts NextEra's conclusion that the reaction by the NRC to events in Japan will not have a long lasting effect on U.S. nuclear power going forward. Unlike Germany, for example, the U.S. government has not decided to change direction and begin closing operating nuclear plants. In fact, license renewal continues with a number of plants receiving approvals of their applications since Fukushima. [2]

The Seabrook Station license renewal application itself was submitted since the last comprehensive update[3]. According to NextEra, the NRC extended the estimated time for completion of the technical review until year-end 2012 because of a problem that Seabrook Station identified with concrete degradation in some of its buildings. (Exhibit 6

[2] Vermont Yankee, Palo Verde Units 1, 2 and 3, Prairie Island Units 1 and 2, Salem Units 1 and 2, and Hope Creek have all received license renewal since the accident at Fukushima. Source: www.nrc.gov/reactors/operating/licensing/renewal/applications.html; viewed 10/5/2011

[3] NextEra Energy Seabrook submitted the license renewal application to the NRC on June 1, 2010.

at 11). This is a concern with respect to aging management directly related to an extension of the license, and the NRC must be satisfied that the licensee has an acceptable plan for dealing with it before proceeding. The licensing board also accepted several anti-nuclear organizations as intervenors[4] in the proceedings and this could delay a final decision by the NRC further. Based on the fact that the NRC has yet to reject a license renewal application, and that Seabrook Station filed at the earliest date, the NDFC accepts that it is probable that the Seabrook Station operating license will ultimately be extended to 2050.

The Committee considered each of these factors – the financial crisis, the Fukushima nuclear disaster, and Seabrook Station's license renewal application – where appropriate in reaching the decisions described in the sections that follow.

A. Stipulation

The parties presented the Committee with a Stipulation that provided a comprehensive summary and discussion of the positions of each of the parties on the issues to be addressed in this docket, and identified where the parties agreed and disagreed. There was agreement among the parties on most of the issues. They agreed that the Committee should approve the TLG estimate of $985.2 million based upon commencement of decommissioning in 2030, storage of spent nuclear fuel and GTCC waste at the site until 2100, and the final dismantlement of the ISFSI by 2101. They also agreed that the Committee should approve the following assumptions as reasonable bases for deriving the decommissioning cost and the funding schedule to fully fund decommissioning:

[4] Beyond Nuclear, Seacoast Anti-Pollution League, New Hampshire Sierra Club, Friends of the Coast, and the New England Coalition. Source: Fosters dated 2/16/2011

- There is a single funding date of 2030 with the expiration of the NRC operating license.
- Core inflation is 3.0%
- The earnings rates are as recommended in the Investment Consultant's report.
- The DOE takes receipt of the first nuclear fuel from Seabrook Station in 2076 and completely removes the spent nuclear fuel and Greater-Than-Class-C waste by 2101.

The parties also agreed that, for 2012, the funding schedule should assume the targeted asset allocations for each Seabrook Owner as long as the actual asset allocations are within ±3% of the Seabrook Owner's targeted allocation on November 30, 2011. If the asset allocation for a Seabrook Owner is not within the ± 3% range, the parties recommend that the lesser of the actual allocations or the targeted allocations be used to calculate the Owner's schedules of payments. They agreed that the earliest year for decommissioning in the event of a premature shutdown should be changed from 2020 to the applicable funding year, plus 15 years. Finally, the parties agreed that during the period of initial dismantlement, assumed to be from 2030 through 2036, the "coverage ratio" should continue to be no less than 3.3.

There was disagreement among the parties on the issue of the release of Escrow funds. NextEra proposed that all but $10 million of the funds held in the Escrow for NextEra be returned to the Company. NextEra argued that the market had rebounded and the currently-approved and proposed schedules of payment project that NextEra will have a significant balance remaining in the Trust after the completion of decommissioning.

Neither Taunton nor Hudson objects to the release of Escrow funds requested by NextEra. MMWEC, however, maintains that the NextEra business model is inherently more risky than that of MMWEC and that release of any NextEra funds from the Escrow would diminish the funding assurances. (Exhibit 2 at ¶21-27). In the Kline affidavit, MMWEC also cited the current financial and electric market conditions and the risks raised by events in Japan as reasons why release of any Escrow funds would weaken necessary funding assurances. (Exhibit 5 at ¶18). Under the terms of its General Bond Resolution, MMWEC is also not able to join the other owners in their request that the Committee recognize the Settlement Agreement between the Seabrook Owners and the Department of Energy as a funding assurance in accordance with New Hampshire Statute RSA 162-F. (Exhibit 5 at ¶28). With respect to funding assurance, all of the parties, except MMWEC, stipulate that the funding assurances contained in NDFC Docket 2002-2 remain adequate to ensure that NextEra meets its share of the cost to decommission the plant. MMWEC continues to maintain its position with respect to the NextEra Energy funding assurances as enunciated in the Stipulation to NDFC Docket 2002-1.

B. The Projected Cost of Decommissioning

The projected cost of decommissioning is defined as the current best estimate of what it would cost to decommission Seabrook Station after completion of its licensed life in 2030. The Seabrook owners again commissioned a study by TLG Services, Inc., the firm that prepared all of the prior Seabrook Station decommissioning studies, including the last one in 2007[5]. TLG specializes in decommissioning studies, and presently produces them for approximately 90% (Tr. at 23) of the nuclear stations in the United States.

[5] The 2007 TLG Study was expressed in 2006 dollars. The 2011 TLG Study is expressed in 2010 dollars.

The 2011 study by TLG entitled Decommissioning Cost Analysis for the Seabrook Station (Attachment E to Exhibit 1) applies the same methodology used by in the 2007 study to determine the cost to promptly decommission the plant, meet all NRC and New Hampshire regulatory and statutory requirements, and restore the site to a condition that would allow a non-nuclear commercial, industrial, or other similar use. (RSA 162-F: 14.II. (b)). In developing the 2011 cost estimate, TLG used the plant design information generated for the decommissioning analysis prepared in 1997-1998, as updated in 2003.

In Docket 2009-1, NextEra requested and was provided with guidance from the Committee on the content of the 2011 Comprehensive Report. In anticipation of the possibility that the NRC would grant license renewal in the near term, and the far more remote possibility that a permanent repository for disposal of spent nuclear fuel and GTCC waste would become available, the Committee requested that costs estimates with various combinations of shutdown dates, and assumed performance on the part of DOE for removing spent fuel from the site be developed. As a result, the TLG study developed estimates for the following six scenarios:

Chart 2
Cost Estimate Scenarios

Scenario	Shutdown	1st Fuel Assembly Pickup	Last Fuel Assembly Pickup	Years Spent Fuel at Site After Shutdown	Total Decommissioning Costs (2010 $M)
1	2030	2040	2063	33	$802
1A	2030	2032	2055	25	$753
2	2030	2077	2100	70	$985

3	2050	2040	2077	27	$758
3A	2050	2032	2069	19	$689
4	2050	2077	2100	60	$899

The information summarized in Chart 2 shows how significantly the cost estimate is impacted by the amount of time that the spent fuel has to be managed at the site after shutdown. For both the 2030 and 2050 shutdown date, the longer spent fuel remains at the site after shutdown, the higher the estimate. A decision on the NextEra application for license renewal will not be made by the NRC until 2013. Since the Seabrook Owners have not asked the NDFC to change the funding date, the three scenarios with a 2050 shutdown were reviewed by the NDFC only as illustrative future possible schedules of payments. In addition, there has been no progress in siting and constructing a permanent repository for spent nuclear fuel in this country as a replacement for the proposed repository at Yucca Mountain. The Committee, therefore, continues to require that the schedules of payments assume that the Seabrook Station ISFSI remains in place until 2101.

The Committee also finds that the cost study by TLG is reasonable, that TLG followed NRC requirements regarding decommissioning and correctly applied the New Hampshire Commercial and Industrial Standards as described in RSA 162-F:14. II (a) and (b). Consistent with these standards, the TLG decommissioning estimate contains and accounts for the removal of all the contaminated and radioactive plant components and structural materials, such that the site would be available for unrestricted use with no further requirement for an NRC operating license. The Committee therefore accepts the estimate of $985.2 million for the total cost to decommission Seabrook Station at the end of its licensed life in 2030 with removal of the ISFSI and final completion of decommissioning in 2101.

C. Escalation

Escalation is the rate at which the cost to decommission is assumed to increase from year to year. It is derived by examining the decommissioning activities as individual cost components. The decommissioning components include labor, materials, energy, and LLRW disposal, as well as an "other" category for expenses that do not fit neatly elsewhere. Escalation indices published by the Department of Labor and/or private entities such as IHS Global Insight are then applied to these components, and a weighted average composite escalation rate is derived for the decommissioning cost as a whole. In Seabrook Station's decommissioning funding schedule, the "Target Cost" for each funding year is increased by this rate. The Target Cost for a given year is the cost of decommissioning in that year's dollars assuming that the same conditions exist then as they are projected to exist on the funding date in 2030. The ratio of the trust balance to the Target Cost is a barometer of the progress that is being made toward full funding. The ratio provides an approximate indication of the ability of the Trust to provide funding for prompt dismantlement if Seabrook Station were to shutdown prematurely before the funding date (see also Section I below). It is only approximate in that the timing of shutdown will impact decommissioning cost components such as the amount of spent nuclear fuel that must be assumed to be stored in the ISFSI until 2101 and thereby impact the total cost.

In the Final Report and Order for NDFC Docket 2007-1, the Committee lowered the escalation rate from 4.5% to 4.2%, where it remains today. NextEra requested a further reduction in the escalation in Docket 2009-1 on the basis of an analysis performed by TLG. Although the 2009 analysis calculated an escalation rate of 2.9%, the Joint Owners requested an adjustment to 3.75% out of deference to the NDFC's preference for gradualism. In the Final Report and Order for NDFC Docket 2009-1, the Committee rejected the requested change finding the record failed to establish a basis for a change. The NDFC also held that, absent compelling reasons, the escalation rate will be examined only every four years during the comprehensive review. (Docket 2009-1 Final Report and Order at 8). The Joint Owners now present another escalation analysis by TLG which concludes that the actual rate of decommissioning cost escalation is 2.68%. (Attachment F to Exhibit 1). Again, in the interests of a gradual approach to adjusting a parameter with a dramatic impact on the funding schedule, the Joint Owners proposed that the rate be reduced to 3.5%.

TLG's qualifications in the area of calculating escalation rates were examined and accepted previously by the Committee. (Docket 2007-1 Final Report and Order at 19). The TLG approach parallels that of the NRC requirements (10 CFR 50.75) in that the cost elements are categorized as either labor, equipment/material, energy, low level radioactive waste (LLRW) disposal and "other" for items not otherwise categorized. Labor, comprising over 60% of the estimated cost, is by far the largest component with the cost of energy being the smallest. Once the total cost estimate is broken down into these categories, the escalation indices for each of the categories must be selected. For the LLRW segment, the rates are derived from the Life-of-Plant Disposal Agreement with EnergySolutions. (Docket 2007-1 Stipulation of the Parties at ¶5.5.8). For the other categories, TLG either used indices provided by IHS or, in the case of the "other" category, used an index reviewed and approved by IHS.

IHS provided support for TLG's 2007 escalation calculation. The firm performs the analyses underlying the indices. After reviewing TLG's calculation, IHS concluded that the indices and methodology used were appropriate. (Exhibit 9 at 6).

The following chart compares the indices and their variation for the three escalation analyses conducted and presented to the Committee over the last four years.

Chart 3
Comparison of IHS Global Escalation Indices

Category (% of Total Cost)	Esc Rates for 2007 NDFC Scenario (%)	Esc Rates for 2009 NDFC Scenario (%)	Esc Rates for 2011 NDFC Scenario (%)
Labor (67.76%)	3.35	3.17	2.89
Equipment & Material (3.50%)	0.19	0.22	0.09
Energy (0.58%)	1.41	1.84	1.67
LLRW Burial (3.89%)	2.10	2.14	1.89
Other (24.27%)	2.93	2.86	2.62
COMPOSITE	**3.04**	**2.91**	**2.68**

The chart shows that escalation for the labor category, which comprises over two-thirds of the decommissioning cost, changed by approximately 14%, from 3.35 to 2.89 in just four years. The equipment and material component, which comprises 3.50% of decommissioning costs, also changed significantly, from 0.22% to 0.09% or a 55% reduction in two years. Energy costs are a minor part of the total and are therefore not of concern in the calculation. The LLRW Burial component uses indices drawn from NextEra's contract with EnergySolutions. TLG chose the consumer price index for services for the "other" category, described as consisting of operating costs not otherwise accounted for such as taxes, fees, costs for specialized services, and payments for one-time disposal services. IHS concurred with this approach.

The Committee accepts that the reliability and accuracy of predicting escalation over a 90-year planning horizon is based on best available information and will need refinement over time. The Committee also accepts that TLG is now able to draw on the experience of a number of nuclear power plants that have been decommissioned with only the ISFSI remaining (Tr. at 23. See also NDFC Docket 2007-1 Final Report and Order at 21). This historical record and the lessons learned from it, although limited in its applicability to a plant of Seabrook's size and operating history, are bound to make future decommissioning cost estimates more predictable and cost escalation estimates more reliable. As a result, the NDFC finds it reasonable to give credence to the contention that escalation rates for decommissioning a nuclear power plant might have a downward trend as shown in Chart 3.

The Committee is also mindful that a change in the escalation rate, all other assumptions being equal, has a dramatic impact on the projections in the funding schedules, even when put in current dollars as shown in the table below.

Chart 4
Impact of Varying Escalation of the Schedule of Payments

Escalation Rate	Trust Balance in 2101 (2101 $M)	Trust Balance in 2101 (2011 $M)	NextEra Energy Seabrook Contributions 2012-2030 (Millions)	Municipal Owners Contributions 2012-2030 (Millions)	Total Contributions 2012-2030 (Millions)
2.68% [1]	$55,721	$3,757	$0	$0	$0
3.5% [2]	$28,426	$1,990	$0	$6.85	$6.85
3.85% [1]	$15,294	$1,069	$0	$14.9	$14.9
4.2% [3]	$396	$28	$0	$24.0	$24.0

(1) Seabrook Funding Run Table dated 8/3/2011 entitled "Decommissioning Model Assumptions and Projections" updated 8/31/2011 (Email Christopher Roach to Harry Judd and John Hart et al dated 8/5/2011)
(2) Exhibit 1 Schedule C.4
(3) Exhibit 1 Schedule C.9

In support of the requested reduction in the escalation rate, the Seabrook Owners note that under some assumptions the Trust is projected to have a significant balance after decommissioning is completed in 2101 for the range of escalation rates shown in Chart 4[6]. The determination of an appropriate escalation rate is based on the factors discussed above and is unrelated to the Trust balance. Accordingly, the Committee will not consider the amount held in the Trust, or the potential for excess monies being held in the Trust at the end of decommissioning, when setting the escalation rate.

Whatever amount of confidence one has in the accuracy and reliability of the indices that IHS provides TLG for their analysis, they only provide forecasts through 2035. TLG then extrapolates using a 25-year moving average inflation factor to extend the IHS indices through 2101. In other words, the predicted escalation for 2036 and beyond is the arithmetic average of the prior 25 years. The one certain thing we can say about any prediction of the future is that it will be less than 100% accurate. Obviously, the longer the forecast, the less reliable it is likely to be. Ideally, the best measure of the rate of increase – or decrease - of the cost of an activity would be quantitative data showing real world experience comparing estimated decommissioning costs with actual performance and the trends of those costs over time. There is, however, only limited experience in actually decommissioning nuclear power plants in this country and each

[6] These projections, however, are based on year-end 2010 balances in the Trust and, as we have witnessed over the last four years, bear markets can bring quick and dramatic changes. In fact, as highlighted in the discussion on the assumed earnings rates of return in Section E below, the Trust has still not come close to catching up with the projections made for it just before the financial crisis hit in 2008.

had its own set of unique circumstances impacting costs. Although Witness Cloutier said that TLG's experience in decommissioning projects at Rancho Seco, Big Rock Point and Maine Yankee indicated that the reported costs compared well with what was predicted, no specific evidence or quantitative data on the predicted versus actual costs was offered. (Tr. at 23). When the information is available, it would be constructive to know the relationship of the change in the costs of decommissioning activities versus core inflation. Without that, the Committee's decision on escalation must therefore rely to a large extent on the escalation analysis and their inherent flaws in trying to make 90-year forecasts and the judgment of Committee members.

In support of the indices provided by IHS, a document entitled "IHS Global Insight's Escalation Forecasts – A Detailed Explanation" (Exhibit 9) was proffered. It provides a convincing presentation of the qualifications of IHS in forecasting pricing conditions. However, the only specific evidence presented with respect to the accuracy of their forecasting is a table that shows each of the five indices used by TLG with IHS's projected change during the first forecast of the year for the years 2000 through 2009, and the actual change that occurred in each year. In other words, it presents the accuracy of its one-year forecasts which is of limited relevance to the 90-year planning horizon for the decommissioning Trust. (Appendix A to Exhibit 9). Even if data showing long-range forecasting versus actual escalation in the past were presented and shown to be relatively accurate, prudency would dictate a conservative approach for assigning a value for such a long period.

The Committee takes comfort in the fact that escalation is reviewed at least every four years and any additional industry experience in decommissioning, including unexpected problems or advancements in techniques, can be factored into the calculation. During these reviews, adjustments can be made to correct any projected deviations from the course of achieving full decommissioning funding by the funding date. In addition, although delayed (see Section G below), it appears likely that the NRC will approve Seabrook Station's application to have its operating license extended to 2050, within the next two years. With license extension, there will be twenty more years to accumulate funds while the total cost to decommission is estimated to decrease. (Attachment E to Exhibit 1 at xxi of xxiii).

The Committee appreciates the Joint Owners' deference to the NDFC's approach of gradual changes in the assumptions used to determine the schedules of payments, and their request for a smaller reduction in the escalation rate than that calculated by the witnesses. However, in view of the concerns expressed and discussed above, the Committee will move more cautiously than requested by the Seabrook Owners. The Committee believes that a reduction from 4.2% to 3.5% is not warranted by the evidence presented in view of the uncertainties inherent in applying indices covering 25 years to a 90-year forecast. In 2007, TLG calculated a rate of 2.9%, the Joint Owners requested a reduction in the rate from 4.5% to 3.75%, and the Committee ordered a reduction to 4.2%. The Committee will follow a similar approach in this docket, maintaining a roughly equal margin in percentage terms above the calculated rate of 2.68%, and approve a reduction in escalation from 4.2% to 3.85%.

D. Release of Escrow

Once money is placed in the Trust, it can only be used to decommission Seabrook. (RSA 162-F: 23). Excess funds remaining in the Trust at the completion of decommissioning will be returned to the owners but only after decommissioning is completed. (RSA 162-F:23, III). The Escrow fund is a cash funding assurance controlled by the NDFC, with the monies held outside of the Trust. The Committee can release all or part of the Escrow, or transfer the monies to the Trust, at any time. In the event of any attempt to seize the Escrow funds, the money will automatically be transferred by the Treasurer to the Trust. (Escrow Agreement 11.(b)). In this proceeding NextEra requested that all but $10 million of its share of the Escrow be refunded. The other Seabrook Owners did not request release of monies from their Escrow accounts.

As of October 31, 2011, the Trust and Escrow balances were as follows:

Chart 5
Escrow and Trust Balances as of October 31, 2011

Joint Owner	Escrow Balance	Trust Balance	Total Balance
NextEra Energy Seabrook	$22,941,260	$371,363,390	$394,304,650
MMWEC	$5,113,780	$36,696,835	$41,810,615
Hudson	$4,997	$383,029	$388,026
Taunton	$8,372	$500,049	$508,422
Total	**$28,068,409**	**$408,943,303**	**$437,011,712**

Although these values will change before the year is ended, as of October 31, 2011, NextEra's request would amount to a refund of approximately $12.9 million.

In 2007, NextEra requested, and the Committee granted, a refund of all but $2.5 million of its share of Escrow or about $4.8 million. The Committee reasoned that with a license extension to 2050, NextEra at the time was projected to have a surplus of approximately $12.5 billion at the end of decommissioning and that, even without license extension, there would have been a smaller, but still significant, surplus of funds. (NDFC Docket 2007-1 Final Report and Order at 34). Today there is still a surplus projected at the end of decommissioning with and without license extension. The approved and proposed funding schedules also, as in 2007, do not project a need for additional NextEra contributions.

MMWEC objects to the release of the NextEra funds. It argues that release of the funds would weaken the funding assurances required under New Hampshire law especially in light of the events in Fukushima, Japan. (Exhibit 5 at ¶18). Neither Taunton nor Hudson objects to NextEra's request. (Exhibit 2 at ¶8.4 and 8.5). With respect to New Hampshire law, it is noted here that the relevant statute states that the Committee "…may meet to determine whether the amount of the fund, schedule of payments, or any funding assurance in place pursuant to an order of the committee shall be increased, *decreased*, (emphasis added) or otherwise altered for reasons including changes in owner or owners, the financial condition of an owner or owners, need, safety, reliability, technology, or other changes in circumstances." (RSA 162-F:22.III).

It is instructive to compare the circumstances surrounding the Committee's decision to release funds in 2007 with those in place today. The following table provides the status of the key parameters on which the decision was based, now and then, with and without license extension.

Chart 6
NextEra Projected Balances in 2101 and Total Contributions
Docket 2007-1 and 2011-1

	Docket 2007-1 NDFC Approved ($M)	Docket 2011-1 ($M)
Total NextEra Escrow Balance	$7.3	$22.9 (as of 10/31/2011)
Escrow released to NextEra	$4.8	TBD
Funding Date = 2030:		
NextEra Trust balance in 2101 without license extension (Funding Date = 2030)	$4,227	$1,732[1]

	Docket 2007-1 NDFC Approved ($M)	**Docket 2011-1 ($M)**
NextEra Energy Seabrook contributions without license extension (Funding Date = 2030)	$0	$0[(1)]
Funding Date = 2050:		
NextEra Trust balance in 2101 with license extension (Funding Date = 2050)	$54,705	$82,531[(2)]
NextEra Energy Seabrook contributions with license extension (Funding Date = 2050)	$0	$0[(2)]

[(1)] Exhibit 1 Schedule C.1.
[(2]) Exhibit 1 Schedule C.2

As can be seen, the projected Trust surpluses in 2101 for funding dates of either 2030 (current licensed life) or 2050 (licensed life if extension is granted) are significant. The Escrow fund balances have more than tripled because of the relatively large contributions required in 2009 and 2010 when the Committee ruled that the assumed return on equities be reduced to zero in the wake of the financial crisis and allowed all contributions to be made to Escrow. Releasing all but $10 million of NextEra's Escrow balance, as requested, would still leave more than twice the Escrow balance than NextEra had after the funds were released in 2007. The total Escrow balance for all owners would be approximately $15 million also about twice the total in 2007. The funding schedules presented for review in this docket assume that owners with projected overfunding in the Trust are refunded their Escrow balances in 2013 and these funds are therefore not credited in the funding- schedule after 2013. Releasing funds from NextEra's Escrow balance, therefore, will not impact the projected balances at the completion of decommissioning.

Nevertheless, the Committee's decision must recognize the volatility of the market over the last three years and its impact on the Trust. Although there has been generally steady growth in the Escrow because of the nature of its investments, the Trust balances have been cycled tremendously since 2007 as shown in Chart 8 below. As mentioned, the Committee allowed the increased Seabrook Owner contributions necessitated by the market downturn and consequent reduced balances to be placed in Escrow rather than the Trust and therefore potentially refundable to the owners.

Trust balances are still far below where they were projected to be during the last comprehensive review in 2007, shortly before the financial crisis and recession took hold. At the hearing on September 27, 2011, the Committee was favorably disposed to release some level of funds from escrow but was inclined to an amount less than the approximately $13 million requested by NextEra. Inasmuch as the Committee did not reach a consensus on the level of funds that would be released, additional argument or information may be presented to the Committee at the Public Hearing in the Town of Seabrook. A final determination will then be included in the Final Report and Order for this docket.

E. Earnings Assumptions

As required by the Seabrook Nuclear Decommissioning Financing Master Trust Agreement, the Investment Consultant, Prime, Buchholz & Associates, Inc. performed a review of the funding schedule and investment assumptions. (Exhibit 1, Tab D). The current investment guidelines, as approved by the State Treasurer, give the Seabrook Owners the option of investing in any of the six investment funds. The funds with the year-end balances are shown on the following table:

Chart 7
Assumed Fund Returns and 12/31/2010 Balances

Fund	Asset Class	Investments	Assumed Pre-tax Returns		Balances 12/31/2010	
			Nominal	**Real**	**$M**	**%**
1A	Fixed Income	Government, corporate and municipal bonds	6.0	3.0	$98.6	24.4%
1B	Core Equities	International stocks	9.5	6.5	$57.4	14.2%
2	Fixed Income	Government and corporate bonds	6.0	3.0	$18.2	4.5%
3	Fixed Income	Municipal bonds	6.0	3.0	$18.2	4.5%
5	Core Equities	Domestic large and mid/small cap stocks	9.5	6.5	$192.6	47.8%
6	Core Equities	Domestic large and mid/small cap and international stocks	9.5	6.5	$18.3	4.5%
Trust Totals					$403.2	100

Two additional funds (1C and 4), not shown above, are cash vehicles that will be used beginning in the years immediately before decommissioning commences. Funds 1A and 1B are "qualified" funds. Earnings on the qualified funds receive a favorable tax rate that, by law, is set at 20%. Nonqualified fund earnings flow through to the owner, and are taxed at the corporate federal tax rate of 35% plus any applicable state tax. The three municipal Seabrook Owners do not invest in the qualified funds because they are not subject to taxes. NextEra has investments in both funds. The funding model assumes a 0% tax rate on NextEra's nonqualified funds because taxes on the Trust earnings are paid outside of the Trust. The Investment Guidelines dictate the limiting percentage of their individual portfolios that the Seabrook Owners may have in each Fund.

The Investment Consultant's report recommends no changes to the investment earnings assumptions. As in the past, their recommendations are based on an analysis of historical returns. In the 2007 proceeding, the NDFC approved slightly higher assumed earnings on equities (10% on international and 9.7% on domestic) once each Joint Owner reached their targeted equity allocations. However, before that occurred and in the wake of the financial crisis and stock market collapse in 2008, the Committee set an assumed return on equities of zero for 2009 and 2010 and 9.5% thereafter. This required increased contributions that the Seabrook Owners were allowed to place in the Escrow. Accordingly, the performance of the Trust since 2007 is a result of earnings alone. The following table indicates the trend of the actual balances over the last four years and how they compare to the pre-financial crisis/pre-recession projections made in the NDFC-approved Docket 2007-1 funding schedule where available.

Chart 8
Fund Balances vs. 2007 Projections

	Actual Fund Balance ($M)	Fund Balance Projected in 2007 Report NDFC Scenario ($M)
December 31, 2007	$396	-
June 30, 2008	$367	
December 31, 2008	$301	$443
December 31, 2009	$357	$479
December 31, 2010	$403	$518
October 31, 2011	$409	Not Available
December 31, 2011		$559

The table shows just how slow the recovery has been. As of year-end 2010, the Trust was still about 20% behind the pre-financial crisis projections and is still significantly behind projections as of October 31, 2011 in a very volatile market. This is also reflected in the ratio of the Trust Fund balances to the estimated cost of decommissioning projected in 2007 for the year-end 2010 when compared to the actual. The 2007 Annual Report predicted that by December 31, 2010, the Trust would have accumulated 51% of the fully funded cost. Using the 2011 revised decommissioning cost estimate, the actual percentage of the fully funded decommissioning cost in the Trust as of year-end 2010 was 41%. If the Escrow funds are included, the percentage is 43%.

The Committee recognizes that the assumed rates of return for Trust investments are based on long-term performance and that short-term fluctuations in the market tend to be smoothed out when investments are held for long periods. It is also true that the equity earnings assumptions, along with escalation, are the principal drivers of the funding schedules and that relatively small changes in these two inputs can have a large impact. Nonetheless, the Committee must also take note of the recent volatility of the market and consider whether it is prudent to continue to consider the average investment performance since the 1920's, as provided by NextEra, as an appropriate indicator of future long-term returns. While present operating performance suggests Seabrook Station will operate the full license life, the Committee makes decisions based on best available information, and the judgment of the members. To that end, the Committee recognizes the reality that, if the plant were to shut down permanently during the downside of the increasingly volatile investment market, the Trust, with over half of its funds scheduled to be in equities, would be significantly below expected Trust balances as projected in recent years.

The Committee must consider what is presented during the docket and apply judgment and common sense when determining whether the plan for ensuring full funding of decommissioning costs is sound. In the current economic environment the members are reluctant to accept a funding plan that assumes equity investment earnings will average 9.5% for each year from 2012 through 2100 based on the current record in this docket. The equity earning actually realized since 2008 are far from the predicted

9.5% and the Committee is unaware of any credible investment advisor predicting equity earnings approaching 9.5% during the next five years. There is also nothing currently in the record regarding the assumed returns on other funds with similar long-term planning horizons.

The Committee did not express a preference as to the appropriate earnings rates at the hearing on September 27, 2011, and thus its determination is deferred pending the opportunity for the parties to provide additional testimony at the Public Hearing in the Town of Seabrook.

F. Equity Allocations

The funding schedules presented to the Committee in the NDFC Docket 2010-1 proceedings assumed that the distribution of funds for each Seabrook Owner was equal to the targeted equity allocation even though the actual equity allocations of MMWEC, Taunton and Hudson were materially lower. (Docket 2010-1 Exhibit 11). As a result, the Committee requested that these three Seabrook Owners provide the Committee with their then-current equity allocation targets. This information was provided and is summarized in the table below. (Docket 2010-1 Exhibit 14).

Chart 9
Targeted Equity Allocations of Municipal Owners

	Targeted Equity Allocations (as of 2010)			Actual Allocations 12/31/2010(1)
	2010	**2011**	**2012**	
MMWEC	55%	60%	65%	50.9%
Taunton	30%	30%	30%	31.8%
Hudson	30%	30%	30%	31.8%

(1) Seabrook Nuclear Decommissioning Financing Fund, Independent Auditors' Report, As of and For the Years Ending December 31, 2009 and 20010, Deloite and Touche, LLP, March 15, 2011.

The Committee denied the owners request that the funding schedules assume equity investments that have yet to be achieved, and directed the Managing Agent to produce the schedules of payments for 2011 using the actual asset allocation in the Trust investment portfolio of each Seabrook Owner as of November 30, 2010. This approach avoided either overstatement of projected earnings in equity investments at higher assumed earnings rates, or the undervaluation of the Trust that would result from a failure to achieve their asset allocation goals. The Committee stated that it would be willing to revisit the issue in the 2011 docket. (Docket 2010-1 Final Report and Order at 12).

In the Stipulation, the parties inform the Committee that "[W]hile all but MMWEC are at or close to the applicable joint owner's intended allocation, none precisely reflect the intended equity allocations." (Exhibit 2 at ¶5.6). The parties did not provide the Committee with updated specific information on the targeted allocations of the three municipal owners or their current targets. The Committee notes, however, that the three municipal owners stated in last year's proceedings that they would reach their intended allocations by the end of 2010 which apparently did not happen. (Exhibit 14 to NDFC Docket 2010-1).

In these proceedings, the parties request that the Committee allow each owner to specify its intended allocation for funding purposes so long as the allocation specified by the Seabrook Owner is within ±3% of the target allocation as of the date identified by the Committee. Under their proposal, if the target allocation range is not achieved, the lesser of (1) the actual equity asset allocation as of November 30, 2011, or (2) the targeted allocation shall be assumed for the applicable owner for the operating life of the plant. The bond allocation would be calculated based on unity minus the above determined allocation. (Exhibit 2 at ¶16.9). The Seabrook Owners claim that this bandwidth balances the goals of "…using realistic data with the desire to use allocations that reflect each owner's intentions and fund management targets." (Exhibit 2 at ¶5.6). They also assert in support of their request, that locking in the actual allocation rather than the target allocation on the specified date could have a significant effect on contributions. The owners further state that the granting of their request be conditioned on each owner providing "…an investment plan with milestones designed to achieve the targeted allocations that is satisfactory – in detail and substance – to the Committee." (Exhibit 2 at ¶5.6).

The Committee agrees that a funding schedule based on actual allocations as of November 30 may be very different than one based on the targeted allocations. As a general matter, the Committee has looked to actual performance, as it does with Trust Fund balances, as a way of preventing the Trust and contribution requirements from swinging wide of expectations, and tended to employ straightforward processes without the need for additional calculations. At the September 27, 2011 hearing, however, the Committee expressed support for the proposed change from the current practice of using actual data as of November 30. While such a change may be acceptable in theory, some concern remains about how much of an impact a deviation of, for example ±3%, would have, especially over a 90-year period. Furthermore, the relative costs and benefits of the change require further consideration inasmuch as the Committee, at the time of the hearing, had not been provided the investment plan with milestones referred to as part of the proposal. Therefore, before the Committee finalizes a decision on the targeted allocation, subject to a +/-3% collar, approach, further support is required to change the practice of assuming the actual allocations as of November 30 in the funding schedule. Consequently, the Committee will revisit this issue at the Seabrook Hearing.

G. Funding Date

The Funding Date is the day on which the Trust shall have sufficient monies to complete decommissioning on the schedule approved by the NDFC. (RSA 162-F: 14. V). The schedules of payments are calculated using the funding date in order to establish the full term of payments. In Docket 2003-1, the Committee designated the NRC operating license expiration date as the funding date. (Docket 2003-1 Final Report and Order at 14). Since then, Seabrook Station's performance has continued to be strong. The station's unit capability factor from 2003 to 2010 averaged 92.2% and the plant operated continuously for 463 days before being taken offline in April 2011 for the start of a refueling outage. (Exhibit 1 at 15 and Table 3). No party requested a change to the funding date and the Committee finds that it is reasonable to assume that Seabrook Station will operate for the full period of its current licensed life and that the funding date should, therefore, continue to coincide with the current operating license expiration date of 2030.

H. Inflation Rate

An inflation adjustment is applied to the schedules of payments after the projected cost of decommissioning is determined. The contribution requirements (if any) will increase each year by the inflation rate. The goal of the inflation adjustment is to avoid inter-generational transfers of decommissioning obligations that would result if different generations of customers paid an equal amount toward decommissioning in the then current year dollars without regard for the decrease in the value of those dollars over time. The inflation adjustment is distinguished from decommissioning escalation in that the former reflects the fact that the general level of the prices for goods and services is rising and the purchasing power of a dollar subsequently falling while the latter refers to the rise in the cost of services and materials specific to the process of decommissioning Seabrook Station.

In these proceedings, the parties request that the inflation rate should remain at 3%. The Investment Consultant's report for 2011 (Attachment B to Exhibit 1) notes that the U.S. has been in a low inflation trend for a number of years and concludes that inflation expectations of 3% are reasonable and should not be adjusted. It is, in fact, higher than the 2.5% inflation experienced over the last decade, according to the report. Acknowledging the volatility of the energy component of inflation, the Investment Consultant concludes that the relationship between energy prices and inflation remains muted since at least 1985. Even the high inflation experienced during the 1970's, the report states, was due more to monetary policy than to the oil price spikes of that period. The index used in the analysis was the consumer price index. The Committee continues to find that a 3% inflation adjustment is reasonable.

I. Premature Cessation of Operations

As required by statute, in addition to fully funding the cost of decommissioning by the funding date, the owners of Seabrook Station are required to provide funding assurances for a premature cessation of operations. The Trust is designed to reach full funding for decommissioning by the funding date which coincides with the expiration of the NRC operating license in 2030. The Trust alone is not designed to be fully funded for premature decommissioning. The gap in funding caused by a premature cessation of operations would be filled by additional contributions, the Support Agreement, or any single or combination of other funding assurances including parental guarantees and the

Escrow fund. If a premature shutdown were a result of a nuclear accident, the property insurance that the NRC requires Seabrook Station, and all nuclear power plants, to carry will come into play. The property insurance is not a funding assurance as defined by RSA 162-F but may cover some of the decommissioning costs. In Section I.1 below, the Committee discusses issues associated with planning for funding for a permanent cessation of operations before the expiration of the NRC operating license when *not* caused by an accident. Decommissioning funding in the event of a permanent shutdown that is the result of an accident covered by the property insurance is discussed in I.2.

I.1 Premature Cessation of Operations *Not* Resulting from a Nuclear Accident

New Hampshire statute, RSA 162-F:21-c states:

> Funding assurances shall be sufficient to fully fund the projected cost of decommissioning the facility by the funding date, *including in the event of the premature permanent cessation of operation.* The committee shall determine the adequacy of the method or methods, and the level of each owner's funding assurance. The amount available to the fund shall be sufficient to cover the owner's share of the full cost of decommissioning by the funding date. *(Emphasis added)*

Each Seabrook Owner provides a funding assurance in the form of monies held in the Escrow. NextEra also provides funding assurances through its parent company. The municipal owners provide funding assurances through their ratepayers.

In 2001, the Committee determined that, for purposes of decommissioning funding assurances, the earliest that decommissioning would be assumed to start would be 2015. The NDFC establishes a date for dismantlement to commence to meet the statutory requirement of prompt decommissioning even with a premature shutdown. With the passage of time, this was changed to 2020 during the last comprehensive review in 2007. (Docket 2007-1 Final Report and Order at 35). In a planned permanent shutdown at the end of licensed life, there would be time to plan for decommissioning both financially and operationally. The NRC requires that a preliminary cost estimate be submitted five years before the shutdown. This would be followed by a preliminary decommissioning plan required no less than two years before shutdown. Within two years following shutdown, the licensee submits a post shutdown decommissioning activities report (PSDAR) that includes a detailed schedule, estimate and environmental assessment. Up to 20% of the decommissioning funds may be spent following submittal of the PSDAR but full blown dismantlement cannot begin until a licensing termination plan is submitted and approved by the NRC. Clearly, getting approval to decommission a nuclear plant is an involved process and takes time. (10 CFR 50.82). If the plant must be shutdown prematurely, none of the pre-shutdown planning will have been completed prior to shutdown. By assigning a date for the earliest start of decommissioning, the Committee provides time to conduct the planning and obtain the regulatory approvals needed. If the date assigned is within a reasonable amount of time after the unexpected permanent shutdown, it should also be consistent with public expectations, (NDFC Docket 2001-1 at 30) while allowing any necessary adjustment of the funding schedule, reset of the funding date, or application of the funding assurances as necessary to ensure that prompt dismantlement can commence on the specified date.

It is appropriate to revisit setting the date when dismantlement would begin in the event of permanent premature cessation of operation. The parties proposed that rather than selecting a date-certain as has been past practice, the Committee instead adopt an indexing approach that would set the earliest decommissioning date equal to the date of the funding schedule plus a fixed number of years. The Joint Owners propose that this index be 15 years. In other words for the 2012 funding schedule, the earliest decommissioning date would be 2027, for the 2013 funding schedule, it would be 2028 and so forth. The Committee agrees that an indexed approach is appropriate.

As stated above, the purpose of setting an earliest decommissioning date is to allow time for planning and funding for prompt dismantlement. When assigning these dates in Dockets 2001-1 and 2007-1, the Trust was not as mature as it is now and the Committee had less confidence in the reliability of the estimated cost of decommissioning. It therefore seemed reasonable to set the earliest date for decommissioning as long as 13 to 15 years beyond the date of premature shutdown. The Committee now believes, however, that a shorter time period after shutdown is consistent with meeting the prompt decommissioning requirement. The process for developing a license termination plan and obtaining NRC approval should be completed within 3 to 5 years after a premature shutdown not caused by a nuclear accident, assuming a PSDAR is submitted for review within two years. The following two charts show how close to full funding the Trust would be if the earliest date is 10 and 15 years following shutdown. They are based on an escalation rate of 3.85% and other assumptions approved in this Order.

Chart 10
Trust Balances 10 Years Following Premature Shutdown (1)

Year of Final Shutdown	Earliest Decom Year	Balance in Earliest Decom Year ($M)	Target Cost in Earliest Decom Year ($M)	Balance to Target Cost Ratio
2012	2022	1,022	1,556	.66
2013	2023	1,100	1,615	.68
2014	2024	1,183	1,678	.71

2015	2025	1,274	1,742	.73

(1) Funding run M013, Email Christopher Roach to Harry Judd and John Hart et al dated 8/5/2011

Chart 11
Trust Balances 15 Years Following Premature Shutdown (1)

Year of Final Shutdown	Earliest Decom Year	Balance in Earliest Decom Year ($M)	Target Cost in Earliest Decom Year ($M)	Balance to Target Cost Ratio
2012	2027	1,469	1,879	.78
2013	2028	1,566	1,951	.80
2014	2029	1,662	2,026	.82
2015	2030[7]	1,752	2,102	.83

(1) Funding run M013, Email Christopher Roach to Harry Judd and John Hart et al dated 8/5/2011

The charts show that, without any additional contributions or utilization of other funding assurances, the Trust will have a significant portion of full funding for decommissioning available when decommissioning begins, even if the date is as early as 10 years after shutdown. Approximately 38% of the total estimated decommissioning cost is for spent fuel management, most of which will be incurred after prompt dismantlement is completed. (Exhibit 2 at ¶7.1). The Trust funds alone will enable prompt dismantlement to begin within ten years of a premature cessation of operation. The Committee therefore finds it reasonable to set the earliest decommissioning date on which decommissioning should be assumed to start 10 years from the date of the applicable funding schedule.

[7] The funding schedule used as the source for these figures is for a pre-planned decommissioning beginning in 2030 and included about $104M in expenses for 2030. To estimate the balances and target cost in 2030 for a premature decommissioning that occurred in 2015, the decommissioning expenses for 2030 were omitted.

I.2 Permanent Cessation of Operations Following a Nuclear Accident

The decommissioning Trust, as well as the cost estimate and schedules of payments on which it is based, is designed to provide full funding assurance for decommissioning at the end of licensed life not for the costs of dealing with conditions created by a nuclear accident which could drastically increase decommissioning costs as demonstrated by the Three Mile Island accident. For that, NextEra and other licensees are required to have a minimum property insurance coverage of $1.06 billion or whatever amount is available from private sources, whichever is less, to stabilize and decontaminate the reactor and the reactor station site in the event of such an accident. (10 CFR 50.54). The regulations set a strict priority for use of the proceeds from the insurance policy. They must first be dedicated to ensuring that the reactor is in, or returned to, a safe and stable state to prevent radiological risk to the public. The insurance proceeds must then be used to clean up radiological contamination. Only after that can the funds be used for other purposes such as decommissioning. Before decommissioning can commence, a licensee will have to demonstrate to the NRC's satisfaction that decontamination has reduced occupational radiological exposure limits to levels consistent with NRC regulations for normal operation.

NextEra Energy exceeds the NRC insurance requirements and holds $2.75 billion of limited insurance coverage per occurrence per site for property damage[8] through participation as a mutual insurance company with the Nuclear Electric Insurance Limited (NEIL). (Exhibit 2 at 10.30). NEIL is the nuclear property carrier for all of the U.S. reactors. Its policy forms are standard and provide coverage that satisfies the NRC

[8] As a condition of the acquisition of Seabrook, in the Final Report and Order for NDFC 2002-2, the Committee requires NextEra Energy Seabrook to provide 30 days notice before any reduction in insurance coverage.

property rule requirements. In addition to the required coverage for stabilization and decontamination, the standard NEIL policy held by NextEra for its nuclear units also provides limited coverage for premature decommissioning. It is limited in that only insurance proceeds remaining after stabilization and decontamination is completed could be applied to decommissioning and then only after decommissioning Trust funds have been exhausted. It is, therefore, possible that the full $2.75 billion could be allocated to the stabilization and decontamination of the site following a loss leaving no insurance proceeds available for decommissioning.

Some of the activities that are required to meet the stabilization and decontamination criteria of the regulation and the property insurance policy might include activities that are also necessary for decommissioning such as removing damaged fuel and highly contaminated components and structures or removing and disposing of low level radioactive waste. Since they would be covered under the NEIL policy as part of stabilization and decontamination, they would commensurately reduce the ultimate cost of decommissioning not covered by the insurance.

The Committee acknowledges that in the event of a premature shutdown caused by an accident with property damage covered by the NEIL policy, any costs related to stabilization and decontamination of the reactor and site as defined in the NRC regulations would be covered by the policy, even if they also parallel activities required to decommission the site to NRC standards. Further, any remaining insurance proceeds would be applied to a shortfall between the decommissioning target cost and the Trust. The cost of decommissioning would be determined by the NRC-required post-shutdown decommissioning activities report (PSDAR). It is the expectation of the Committee that, in the event of a permanent shutdown due to an accident, any proceeds remaining after stabilization and decontamination of the site to normal operating conditions would be applied to the shortfall, if one existed, between the funds available in the decommissioning Trust and the cost as determined by the PSDAR.

J. Coverage Ratio

In Docket 2005-1, the NDFC adopted the use of a coverage ratio to ensure that there was adequate funding and liquidity during the prompt dismantlement period. The coverage ratio is defined as the ratio of the funds held as cash and cash equivalents to the following year's decommissioning expenses during the first seven years of prompt dismantlement. (NDFC Docket 2005-1 Final Report and Order at 16). The coverage ratio is required to be a minimum of 3.3. The following chart compares the coverage ratios that were projected in the funding schedule approved after the 2007 comprehensive review with those based on projections in this year's comprehensive report.

Chart 12
Projected Coverage Ratios

Year	Coverage Ratio 2007 Projection[1]	Coverage Ratio 2011 Projection[2]
2030	4.8	4.7
2031	3.7	3.5
2032	5.2	4.1
2033	4.8	3.7
2034	4.6	3.5
2035	5.3	4.3
2036	7.0	5.1

[1] Docket 2007-1 Order No. 2 Attachment 1, dated 12/28/2007.
[2] 2011 Comprehensive Report, Attachment C (Report of the Review of Funding Schedule Investment Assumptions by Prime, Bucholz & Associates, Funding Run C.9) (4.2% Escalation)

As can be seen the coverage ratios have come down since 2007. This is a result of the fact that the Trust has not fully recovered from the financial crisis in 2008. The coverage ratios, however, are still above 3.3 for each year of dismantlement. The Committee will monitor these ratios closely but will not change the requirement at this time.

K. Proposed Recognition of DOE Settlement as a Funding Assurance

In the 2010 Annual Report, the Seabrook Owners proposed changes to the funding schedule that would allow credit to be given for a portion of the allowable costs that are subject to reimbursement by the federal government's Judgment Fund in accordance the DOE Settlement Agreement. (Docket 2010 Exhibit 1 at 36). The Seabrook Owners withdrew this request in their stipulation for that docket stating that they understood that the Committee was reluctant as yet to give explicit credit for the Settlement for funding purposes. (Docket 2010-1 Exhibit 2 at ¶3.4). The Seabrook Owners, except MMWEC, now ask that the Settlement Agreement be recognized as a funding assurance as set forth in RSA 162-F. (Exhibit 2 at ¶7.1). RSA 162-F:14.IV defines a funding assurance as follows:

"Funding assurance" means any prepayment, external sinking funds, parental or self-guarantee, insurance, bonds, letters of credit, form of surety, long-term power sales contract, or other method, or combination of methods approved by the committee, that, in the aggregate, meets or exceeds the decommissioning funding requirements established by the committee.

NextEra, Hudson and Taunton argue that, since the Settlement Agreement is an obligation on the part of the federal Government to reimburse allowable costs incurred by the Joint Owners, it qualifies as a "form of surety" or "other method" specified in the statute. According to the requesting Seabrook Owners, it is therefore a funding assurance "…with the full faith and credit of the United States standing behind the obligation to reimburse all of the allowable costs." (Exhibit 2 at ¶7.1). Although a signatory, MWEC cannot pledge the funds it receives from the Settlement Agreement under the terms of its General Bond Resolution (Exhibit 5 at ¶28) and, because it is thus legally barred from doing so, does not join in the request. (Exhibit 2 at ¶7.1).

At the public hearing, both Attorney Roach and Witness Smith compared the Settlement Agreement to a long-term power sales contract which the statute mentions as an instrument that may qualify as a funding assurance. Witness Smith stated that the Settlement Agreement is similar to a long-term power sales contract. (Tr. at 73). Attorney Roach asserted that the Settlement Agreement is actually superior because it reimburses actual decommissioning costs as they are incurred. (Tr. at 111). Witness Smith further testified that failure to designate the Settlement Agreement as a funding assurance would pose an "undue burden" because decommissioning costs that are being funded by the Trust and guaranteed by parent company funding assurances are also subject to reimbursement as incurred by the Settlement Agreement. (Tr. at 71).

According to the revised 2011 decommissioning cost estimate by TLG, more than one-third of the entire cost is subject to reimbursement as an allowable cost under the Settlement Agreement. (Exhibit 1 Attachment E at ix of xxiii). In response to questioning at the public hearing, Attorney Roach assured the Committee that, if recognized as a funding assurance, the Settlement Agreement would not displace other funding assurances and would not have any impact on the required balance in the Trust or on payments into the funding schedule. (Tr. at 145-146).

In response to the Committee's request for a fuller understanding of the practical effects of recognition of the Settlement Agreement as a funding assurance, NextEra submitted Exhibit 10 which addressed (1) the funding mechanism for spent fuel costs under the Settlement Agreement, (2) generally how it is considered a funding assurance if the dollars are reimbursed to the Joint Owners, rather than deposited into the Trust and (3) whether accepting the Settlement Agreement would reduce the quality of the other funding assurances and/or contributions to the Trust or Escrow.

Under the Settlement Agreement, applications for reimbursement are submitted to the Department of Energy only after the spent fuel management costs are incurred. Those expenses determined to be allowable costs in accordance with the terms of the Settlement Agreement are certified by the Secretary of the Treasury. The funds are then "automatically deemed appropriated" and Treasury is charged with providing the funds to the Seabrook Owners. Reimbursement for allowable spent nuclear fuel management costs is paid from the Judgment Fund, enacted by Congress in 1956 to pay settlements and judgments against the United States without the need for specific appropriations from Congress. (Docket 2009-1 Stipulation at ¶3.5). The money utilized to make payments from the Judgment Fund is the general fund of the U.S. Treasury.

NextEra asserts that the dollars do not have to flow directly into the Trust for the Settlement Agreement to constitute a finding assurance and, in support of this, points out that that the current NextEra parental guarantee funding assurances only require that the company cover any shortfall and do not require payment to the Trust . (Exhibit 10 at ¶II). Finally, NextEra assures the Committee that the present Seabrook Owner funding assurances would not be displaced if the Committee accepts the Settlement Agreement as a funding assurance and would have no effect on contributions required from the Seabrook Owners.

The Committee does not dispute the Seabrook Owners' arguments that the Settlement Agreement could reasonably be considered a form of surety as contemplated by the statute. As asserted by NextEra, it may also be superior in some respects to the use of a long-term power contract as a funding assurance. At the present time, however, Seabrook Station does not have a funding assurance for decommissioning in the form of a long-term power contract and, since it has never been requested to do so, the Committee has not taken a position on the use of long-term power sales contracts as a funding assurance. The statute gives the Committee wide latitude in the type of instrument it may designate as a funding assurance as evidenced by the fact that it would allow, subject to NDFC approval, an unspecified "other method, or combination of methods." The key element is approval by the Committee. It therefore makes sense to assess precedent for such a designation and review the criteria that the Committee originally set forth in approving the operative set of parental guarantees as funding assurances.

The current parental guarantee funding assurances were established in NDFC Docket 2002-2 as a prerequisite to NextEra's acquisition of an ownership interest in Seabrook Station. The stated purpose of the funding assurances was to mitigate risk to the State of New Hampshire with the sale of Seabrook Station to a non-utility. The funding assurances proposed were parental guarantees from NextEra Energy (formerly FPL Group) and its subsidiary, NextEra Capital Holdings (formerly FPL Group Capital). In each case, the NDFC required that the obligation to pay in the event that NextEra Energy Seabrook (formerly FPL Energy Seabrook) failed to pay be absolute, unconditional and irrevocable. In describing the objective of what is now the NextEra Capital Holdings funding assurance, the NDFC stated that "[T]here will be no need to determine whether FPLE Seabrook can pay, only that it has not paid in order for the FPL Group Capital payment to be made." (Docket 2002-2 Final Report and Order at 14). The Committee placed a similar emphasis on this principle with respect to what is now the NextEra Energy funding assurance: "FPL Group ultimately will have an absolute and unconditional obligation to pay for decommissioning if FPLE Seabrook fails to pay." (Docket 2002-2 Final Report and Order at 18).

Enforceability of the funding assurances was also critical to the Committee's acceptance. Approval was based on the ability of the NDFC to demand and enforce direct payment. In fact, one of the chief concerns that the Committee had with the funding assurances as proposed was with enforceability. The structure of the NextEra Energy guaranty as originally proposed necessitated a "two-step" approach since it would only be obligated if its subsidiary, NextEra Energy Capital Holdings, failed to meet its decommissioning obligations. The Committee required a more direct obligation from NextEra Energy to the NDFC rather than through its subsidiary. This concern was addressed and resolved in side letters to the stipulation in that docket in which NextEra Energy agreed to the following:

> The obligations of FPL Group Capital under the terms of its guaranty to the NDFC are guaranteed by FPL Group which "absolutely and unconditionally guarantees" those obligations of FPL Group Capital's guaranty to the NDFC. The guaranty from FPL Group to FPL Group Capital is enforceable by the NDFC in the event that (a) FPLE Seabrook does not meet its obligations to the NDFC, and (b) FPL Group Capital does not meet its obligations pursuant to the FPL Group Capital guaranty in favor of the NDFC. (Docket 2002-2 Exhibit 10).

With respect to the NextEra Energy Capital Holdings funding assurance, its guaranty to the NDFC was classified as a contingent obligation included as a debt of that company making the NDFC a "holder" of that debt and effectively making the NextEra

Energy Capital Holdings funding assurance a direct obligation to the NDFC. (Docket 2002-2 Final Report and Order at 18). Both the funding assurances of NextEra Energy and NextEra Energy Capital Holdings were, therefore, effectively absolute, unconditional, direct and enforceable by the NDFC.

These criteria are still the proper tests for the designation of a guaranty as a decommissioning funding assurance under the New Hampshire statute. NextEra makes a case for the strength of the Settlement Agreement in that the Judgment Fund is, by law, a permanent, indefinite appropriation that pays settlements and judgments against the federal government, not subject to further Congressional appropriations, and with allowable costs determined on a frequency and by a method in accordance defined in the Settlement Agreement. Under the Settlement Agreement, however, the decommissioning expenses must first be incurred before a request for reimbursement is made. The reimbursement is then to the Joint Owners and not to the Trust or to vendors for direct payment of decommissioning expenses.

At the September 27, 2011 hearing, concern was expressed about recognizing the DOE Settlement as a funding assurance because there is no guarantee that laws and policies underpinning the settlement will not change. Nevertheless, the Committee indicated that it was willing to consider the subject further at the Seabrook Hearing.

L. Funding Assurances

Funding assurances are required of all non-utility owners of Seabrook Station. (RSA 162-F: 21-a, III). The NDFC may impose a funding assurance requirement to ensure recovery of decommissioning costs in the event there is a premature permanent cessation of operation. (RSA 162-F: 19. IV). In NDFC Docket 2002-2, the NDFC established funding assurance requirements for NextEra, which included a guaranty by its indirect parent company, NextEra Energy Capital Holdings (formerly FPL Group Capital, Inc.), which in turn is backed by a guaranty by the holding company, NextEra Energy, Inc. (formerly FPL Group, Inc.). To ensure full funding of the decommissioning obligation, the Committee established "triggers" that would result in immediate payments by NextEra in the event of a decline in the financial health of NextEra Energy or NextEra Energy Capital Holdings.

None of the triggers associated with the NextEra Funding Assurance requirements have been approached. The following chart summarizes the status of the Funding Assurances with respect to the triggers.

Chart 13
Status of NextEra Funding Assurances and Triggers

Event	Result	2011 Status
NextEra Seabrook fails to make a scheduled payment to the decommissioning fund	➢ In addition to schedule payments, payment equal to 6-months of payments paid into the fund ➢ All decommissioning payments will also be made as scheduled by NDFC	No payments have been missed.
NextEra Energy sells 80% FP&L (FPL utility) generation assets	➢ 12-months of decommissioning payments paid into Escrow ➢ NextEra Energy Seabrook must show cause why funding assurance should not be changed ➢ All decommissioning payments will also be made as scheduled by NDFC	A review of the 8K's and 10K's demonstrated that NextEra Energy did not sell any of FP&L's generation assets in 2010.
NextEra Energy's Funded debt to total Capitalization exceeds 0.65:1.00	➢ NextEra Energy Seabrook will not pay any cash dividends or other transfers to NextEra Energy, /or/ ➢ NextEra Energy Seabrook may	The adjusted total debt to capital ratio improved from 50.0% in 2009 to 48.1% as of

Event	Result	2011 Status
	make payment equal to 6-months of payments paid into the decommissioning fund, in addition to all other scheduled payments ➢ All decommissioning payments will also be made as scheduled by NDFC	December 31, 2010, according to the affidavit of Alex Weiss, Next Era Energy Chief Investment Officer.
NextEra Energy's operating income falls below $800 million	➢ NextEra Energy Seabrook must show cause why funding assurance should not be changed ➢ All decommissioning payments will also be made as scheduled by NDFC	According to the Consolidated Statement of Income for NextEra Energy as reported in the 10K for 2010, operating income in 2010 was $15.3 billion.
NextEra Energy's operating income falls below $600 million	➢ 12-months of payments paid into Escrow ➢ NextEra Energy Seabrook must show cause why funding assurance should not be changed ➢ All decommissioning payments will also be made as scheduled by NDFC	

The Committee is satisfied that the financial capability of NextEra, as backed by the funding assurances of NextEra Energy, Inc., remains sufficient to fund NextEra's decommissioning obligation, even in the event of permanent premature cessation of operation.

The Committee has previously determined that Taunton, Hudson and MMWEC have contractual and statutory obligations that cannot be voided, even through employment of the Bankruptcy Code, and that additional funding assurances were not required of those Seabrook Owners. (NDFC Docket No. 2008-1, at 21 – 29). The Committee is satisfied that those obligations are sufficient at this time.

M. Support Agreement

Under the Support Agreement, established in Docket 2002-1, NextEra Energy Capital Holdings agrees to provide, upon request, financial support to NextEra Energy

Seabrook for prolonged outages. The amount available for outages less than nine months is calculated as equal to one-half of NextEra's share of the average annual operations and maintenance expense during the immediately preceding three-year period and the most recent projection for the succeeding three years. An additional commitment, calculated in the same manner, is made for outages lasting more than nine months. The support funds are automatically replenished after any outage except an outage leading to premature shutdown. The available funding from the Support Agreement is recalculated every four years during the comprehensive review. NextEra has completed an update for 2011 and proposed that the amount available for outages lasting less than nine months be increased from $137.5 million to $143,954,000; and that the additional amount for outages lasting more than nine months also be increased from $137.5 million to $143,954,000. The parties propose no other changes to the terms of the Support Agreement.

The Support Agreement is not a funding assurance and is not enforceable by the NDFC. The parties, however, are required to give the Committee at least 30 days' notice of any changes to the agreement. On this basis, the Committee concurs with the revisions proposed by the parties.

N. Contributions

The NDFC will continue the practice of having all 2012 decommissioning payments deposited in the Escrow. The schedules of payment shall be calculated assuming that all funds held in the name of an owner that is projected to have a balance after decommissioning is completed in 2101 ("overfunded") under the NDFC-approved funding schedule is refunded the balance of its Escrow funds in 2013. If a Seabrook

Owner is not projected to be overfunded, its Escrow funds up to but not exceeding that amount that would lead to overfunding are assumed to be transferred to the Trust. This is only for purposes of establishing the funding schedule. Any actual transfers of Escrow funds to the Trust or back to the Seabrook Owner shall be determined separately. The Committee will review these assumptions and whether, when and under what conditions actual Escrow transfers shall be made in the 2012 docket. The Committee will continue to assume that the monies held in the Escrow will earn 0.25% annually.

O. Schedules of Payments and December Reset

In Docket 2002-2, the NDFC established the practice of setting the Schedules of Payments beginning on January 1 of the following year based on a November 30 actual Trust balance, adjusted to estimate the end-of-year balance as closely as possible. In Docket 2004-1, the year-end calculation was further refined and was again adjusted in Docket 2009-1 to include the Escrow balances and assumed expenses in December in determining future annual contributions. This approach permits the best full-year estimate of earnings and expenses during the year to be recognized when setting contribution requirements for the next year. This practice has come to be known as the "December true-up." This annual adjustment is particularly appropriate during times of uncertain earnings, such as have been experienced for the past four years. Since the final determinations for all of the input assumptions used in developing the funding schedule will not be made until the public hearing in the Town of Seabrook that will be conducted at a date to be separately determined, the reset for the 2012 funding schedule will be made in January 2012 and will be based on balances as of December 31, 2011.

P. 2012 Annual Report

NextEra is to file, no later than March 1, 2012, an independent auditor's report of the Seabrook Nuclear Decommissioning Financing Fund and Escrow Fund as of December 31, 2011. By April 30, 2012, NextEra shall file the annual update required in order for the Committee to perform the annual review of fund performance and fund assurance as required by RSA:F-22.II. Additional filing requirements may be imposed based upon comments on this preliminary order and the submission of the 2012 schedules of payments as required herein.

V. CONCLUSION

For the reasons set forth within this Report and Order, the Committee finds that the requirements of RSA 162-F will be met by the decisions of the NDFC and the resulting schedules of payment.

Based on the foregoing, it is hereby

ORDERED, that the funding assurance provided by NextEra Energy Seabrook approved in the Docket 2002-2 Final Report and Order shall remain in place and unchanged; and it is

FURTHER ORDERED, that the Support Agreement shall be unchanged except that the funds available from NextEra Capital Holdings to NextEra Energy Seabrook for outages less than nine months shall be increased to $143,954,000 with an additional commitment of $143,954,000 for outages lasting more than nine months; and it is

FURTHER ORDERED, that the payments into the Decommissioning Trust and Funding Assurance Escrow from Seabrook Station owners for 2012 shall be calculated in accordance with this Preliminary Report and Order and as supplemented and/or revised in the Final Report and Order issued following the public hearing in the Town of Seabrook, the total of which will be determined by the calculation of a revised schedules of payment; and it is

FURTHER ORDERED, that the schedules of payments for 2012 will be established in January 2012, using the assumptions delineated in the Summary of

Findings of this Preliminary Report and Order and as supplemented and/or revised in the Final Report and Order issued following the public hearing in the Town of Seabrook, calculated using the Decommissioning Fund and Funding Assurance Escrow account market values and the actual Trust investment portfolios as of December 31, 2011, plus the Escrow account contributions scheduled to be made in January 2012, plus the estimated earnings assumptions for January 2012, minus the January 2012 estimated expenses, and comporting to the approved investment plan; and it is

FURTHER ORDERED, that each Seabrook owner shall deposit 100% of its 2012 contribution into the Funding Assurance Escrow; and it is

FURTHER ORDERED, that payments into the Funding Assurance Escrow are funding assurance obligations, and are not schedules of payments obligations of the Seabrook Owners. Payments into the Escrow are obligations imposed by the NDFC and fully enforceable by the Committee; and it is

FURTHER ORDERED, that NextEra is to file no later than March 1, 2012 an independent auditor's report on the Seabrook Nuclear Decommissioning Financing Fund and the Seabrook Escrow Fund as of December 31, 2011; and it is

FURTHER ORDERED, that the 2012 Annual Report is to be filed no later than April 30, 2012, and it is

FURTHER ORDERED, that any party to this proceeding wishing to comment on this Preliminary Report and Order shall file written comments with the NDFC no later than December 15, 2011, and provide a copy to all parties on the same date; and it is

FURTHER ORDERED, that the date of the public hearing to be held in the Town of Seabrook will be held on a date to be announced by separate notice of this Committee and will be at least 30 days after this Preliminary Report and Order has been made available for review in the Town of Seabrook and in the office of the public utilities commission in accordance with RSA 162-; and it is

This is a Preliminary Report and Order of the NDFC prepared in conformity with RSA 162-F:21, III. A Final Report and Order will be issued after the Committee has reviewed all comment received regarding this Preliminary Report and Order, and after the review of all comments submitted at the hearing to be held in the Town of Seabrook, New Hampshire.

This Preliminary Report and Order is released on November 30, 2011.