

**THE STATE OF NEW HAMPSHIRE
NUCLEAR DECOMMISSIONING FINANCING COMMITTEE
DOCKET NO. NDFC 2021-1**

PRELIMINARY REPORT AND ORDER

Concord, New Hampshire
October 25, 2021

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**THE STATE OF NEW HAMPSHIRE
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PRELIMINARY REPORT AND ORDER

1 **I. SUMMARY OF FINDINGS**

2 In this docket the Nuclear Decommissioning Financing Committee (“NDFC” or
3 “Committee”) conducted the annual review required by RSA 162-F:22. The Committee
4 made the following determinations to ensure that the Joint Owners of the Seabrook Nuclear
5 Station (“Seabrook Station”) provide sufficient funding to complete the prompt, safe, and
6 orderly decommissioning of Seabrook Station as required by RSA 162-F:22. In summary,
7 the Committee made the following findings and decisions:

8 1) The projected cost of decommissioning will be \$1,152,493,485 in accordance with the
9 estimate by TLG Services, Inc. in the 2019 Seabrook Station Decommissioning Cost
10 Analysis (*See*: NDFC Docket 2019-1 Exhibit 13. *See also*: NDFC Docket 2019-1 Final
11 Report and Order at 7) escalated to December 31, 2021 at the rate of 3.50%, as
12 approved by this Committee in NDFC 2016-1 (*See*: Docket 2016-1 Final Report and
13 Order at 1).

14 2) For the purpose of calculating the schedules of payments, it shall be assumed that onsite
15 storage of spent nuclear fuel and Greater-Than-Class C (“GTCC”) radioactive waste in
16 the Independent Spent Fuel Storage Installation (“ISFSI”) shall be required until 2100,
17 with the ISFSI subsequently dismantled and permanently removed in 2101.

18 3) The decommissioning cost escalation adjustment applied to the schedules of payments
19 will continue to be 3.50%.

- 1 4) The funding date will continue to be 2050 as approved in NDFC 2019-1 (*See*: Docket
2 2019-1 Final Report and Order at 1) for purposes of calculating the funding schedule
3 for 2022.
- 4 5) The inflation adjustment applied to the schedules of payments will continue to be
5 2.75% as approved by the Committee in NDFC 2016-1 (*See*: Final Report and Order
6 at 2).
- 7 6) The assumed rates of return on the Trust funds shall be as follows:
- 8 a. Equities - 8.50%
9 b. Fixed Income:
10 Core - 4.25%
11 Core-Plus - 4.45%
12 c. Cash and cash equivalents (long-term) - 2.25%
13 d. Opportunistic Strategy asset class (“Opportunistic Fund”) - 7.50%
14
- 15 7) The assumed rates of return on Escrow fund investments shall be 0.25%.
- 16 8) The liquidity coverage ratio during the first seven years of prompt dismantlement, as
17 defined in the NDFC 2005-1 Final Report and Order and clarified in NDFC 2019-1
18 (*See*: Final Report and Order at 23), shall continue to be 3.3.
- 19 9) The funding assurances from each Owner of Seabrook Station (“Joint Owner” or
20 “Seabrook Owner”) will remain unchanged.
- 21 10) If any contributions are required to be made to the Seabrook Station decommissioning
22 financing fund, they shall be made to the Escrow in 2022.
- 23 11) The balance of the funds held in Massachusetts Municipal Wholesale Electric
24 Company’s (“MMWEC”) share of the Escrow fund shall be returned to MMWEC
25 within 90 days of the date of issuance of the Final Report and Order (“FRO”) for this

1 docket with the exception of \$500 which shall be held for the purposes of maintaining
2 the MMWEC Escrow fund active.

3 12) The schedules of payments beginning in 2022 shall be calculated in accordance with
4 the FRO to be issued following the public hearing that will be held in the Town of
5 Seabrook in accordance with RSA 162-F:21.

6 Any additional written information that the parties may elect to place on the record
7 with respect to these matters must be submitted to the Committee by November 15, 2021.
8 These determinations are discussed in detail in this Preliminary Report and Order.

9 **II. PARTIES AND THEIR POSITIONS**

10 In NDFC Order No. 1, issued on May 4, 2021, the NDFC granted full party status
11 to NextEra Energy Seabrook (“NextEra” or “Managing Agent”) and MMWEC and
12 recognized NextEra, in its capacity as Managing Agent, as the representative of Taunton
13 Municipal Lighting Plant (“Taunton”), and the Hudson Light and Power Department
14 (“Hudson”), with Taunton and Hudson retaining the right of full participation at their
15 choosing. NextEra, with its Counsel representing Taunton and Hudson, participated in a
16 public hearing held pursuant to RSA 162-F:21 in Concord, New Hampshire on September
17 28, 2021 (“Concord Hearing”) and produced a Stipulation of the Full Parties
18 (“Stipulation”) (Exhibit 2) presenting the positions of the parties on issues identified in
19 Docket Order No. 1 and the documents that the Joint Owners request be included as
20 exhibits in this docket. MMWEC was represented at the Public hearing by Mr. Matthew
21 Ide. At the Concord Hearing, the parties provided executed copies of the Stipulation.

1 Sworn affidavits were provided in support of each position presented in the
2 Stipulation. Subject to MMWEC's continuing reservations regarding NextEra's funding
3 assurances (Exhibit 9 at 4-5), the Joint Owners requested that the Committee make the
4 following findings:

- 5 1. The assumed cost of decommissioning should be \$1,152,493,485 in December 31,
6 2021 dollars;
- 7 2. The earnings assumptions shall remain as approved in Docket 2020-1;
- 8 3. Escrow funds shall be released to MMWEC as requested;
- 9 4. The financial assurances as approved in Docket 2020-1, remain adequate;
- 10 5. The financial assurance triggers shall remain in place without modification; and
- 11 6. Following receipt of the FRO, the Managing Agent shall submit funding schedules
12 in accordance with the above findings, updated to include Trust balances and
13 earnings and expense estimates as required by the Committee in the FRO.

14 The Stipulation also presents the owners' preliminary proposed schedules of
15 payments beginning on January 1, 2022 based on balances in the Trust as of June 30, 2021.

16 **III. PROCEDURAL HISTORY**

17 The Order of Notice for this docket was issued on March 26, 2021. Timely notice
18 of the docket was provided to the public by publication in the N.H. Union Leader and the
19 Hampton Union on April 1 and April 2, 2021, respectively. Copies of the Order of Notice
20 were delivered to the Town of Seabrook, Town Clerk's Office and to the Seabrook
21 Community Center to be posted for public viewing on March 30, 2021.

1 A pre-hearing conference was held telephonically on April 29, 2021 during which
2 the parties agreed to a proposed procedural schedule and docket scope, which the
3 Committee adopted in NDFC Order No. 1 issued on May 4, 2021.

4 On May 27, 2021, NextEra filed the Seabrook Station 2021 Annual Report.
5 NextEra arranged for copies to be available for public review in the town of Seabrook. The
6 Annual Report included a report entitled Investment Consultant’s Review of Funding
7 Schedule and Investment Assumptions (“LCG Report”) by LCG Associates (“LCG”) and
8 the Joint Owner Proposed Funding Schedule.

9 During the Concord Hearing, Counsel for NextEra presented a witness panel
10 consisting of: Matthew Levander, Licensing Manager for NextEra Energy Seabrook, LLC;
11 Lawrence Dernulc, NextEra Regional Senior Business Manager for Seabrook Station; and
12 David Emerson, Senior Vice-President and Principal of LCG Associates in his capacity as
13 the Decommissioning Trust’s Investment Consultant. Each of the witnesses also provided
14 Affidavits identified as Exhibits in Chart 1.

15 Matthew Ide, Executive Director of Energy and Financial Markets for
16 Massachusetts Municipal Wholesale Electric Company, made a statement in support of
17 MMWEC’s request for release of Escrow in addition to an affidavit (Exhibit 9) regarding
18 MMWEC’s financial performance and the adequacy of MMWEC’s financial assurances.

19 Kenneth Goulart, General Manager for the Taunton Municipal Lighting Plant,
20 submitted an affidavit (Exhibit 10) regarding the adequacy of Taunton’s funding assurance.

1 Brian Choquette, General Manager for the Hudson Light and Power Company,
2 submitted an affidavit (Exhibit 11) regarding the adequacy of Hudson’s funding
3 assurances.

4 All Exhibits indicated in Chart 1 below were offered and accepted by the
5 Committee at the Concord Hearing. Pursuant to RSA 162-F, a subsequent public hearing
6 will be held in the Town of Seabrook no sooner than thirty days after issuance of this
7 Preliminary Report and Order.

8 **Chart 1**
9 **Hearing Exhibits**

Exhibit Number	Description
By Full Parties	
1	2021 Annual Report and all attachments referenced therein
2	Stipulation of the Full Parties
3	Proposed Schedules of Payments based on Trust balances as of June 30, 2021
4	Affidavit of Matthew Levander
5	Affidavit of Lawrence Dernulc
6	Affidavit of David Emerson, LCG Associates, Inc.
7	Audit of Trust
8	Audit of Escrow
9	Affidavit of Matthew Ide
10	Affidavit of Kenneth Goulart
11	Affidavit of Brian Choquette
12	Notice of Publication

1 Chart 2 presents the year-end Trust and Escrow balances for 2019 and 2020, as well
 2 as the total Trust and Escrow balances as of June 30, 2021.

3 **Chart 2**
 4 **Trust and Escrow Balances**

Fund Investments	Year-End 2019 Balances		Year-End 2020 Balances		June 30, 2021 Balances	
	(\$Millions)	(%)	(\$Millions)	(%)	(\$Millions)	(%)
1A Fixed Income	113.0	13.1	119.8	12.4	118.6	11.2
1B Equities	128.0	14.8	129.1	13.4	139.8	13.2
2 Fixed Income	33.5	3.9	35.9	3.7	40.9	3.9
3 Fixed Income	102.6	11.9	96.2	10.0	114.5	10.8
5 Equities	386.6	44.7	479.8	49.6	538.2	50.6
6 Equities	42.2	4.9	49.1	5.1	50.5	4.8
7 Opportunistic	58.6	6.8	56.8	5.9	60.7	5.7
Trust Total	864.7	100	966.6	100	1,063.3	100
Escrow Investments	36.3		20.5		12.1	
Total including Escrow	901.0		987.1		1,075	

5 Funds 1A and 1B are “qualified” funds of the Managing Agent (NextEra Energy
 6 Seabrook). Earnings generated by qualified funds receive a favorable tax rate that, by law,
 7 is set at 20%. Taxes on qualified funds are included as expenses and are paid out of the
 8 Trust, as can be seen in the funding schedules. Nonqualified fund earnings flow through
 9 to the Managing Agent and are taxed at the corporate federal tax rate plus any applicable
 10 state tax. Tax obligations on nonqualified funds are funded outside the Trust. The three
 11 municipal Joint Owners are not subject to taxes and do not invest in the qualified funds.
 12 NextEra has investments in the qualified and nonqualified funds. The Investment
 13 Guidelines dictate the limiting percentage that the portfolio of an individual owner may
 14 hold in each fund or asset class.

15 Under current assumptions for rates of return and with a funding date of 2050, large
 16 surpluses (“overfunding”) are predicted for each Joint Owner upon completion of

1 decommissioning in 2101 (Exhibit 2 at 3). Chart 3 provides the current level and the
2 growth in overfunding over the last ten months.

3 **Chart 3**
4 **Projected Overfunding**

Joint Owner	Projected Overfunding Based on August 31, 2020 Balances	Projected Overfunding Based on June 30, 2021 Balances
MMWEC	\$ 3.0 billion	\$2.5 billion
Taunton	\$10.7 million	\$11.3 million
Hudson	\$ 8.5 million	\$ 9.6 million
NextEra	\$56.8 billion	\$71.5 billion
Total	\$59.8 billion	\$74.1 billion

5 **IV. DISCUSSION**

6 **A. Projected Cost of Decommissioning**

7 The Committee conducted a review of the detailed revised cost estimate presented
8 by TLG Associates on behalf of the Joint Owners in the NDFC 2019-1 comprehensive
9 review. No changes were proposed in this docket. Therefore, for purposes of the funding
10 schedules, the projected cost of decommissioning shall be assumed to be the estimated cost
11 approved in NDFC 2019-1 escalated at 3.50% to December 31, 2021 dollars or
12 \$1,152,493,485.

13 **B. Funding Date**

14 The Funding Date is the date established by the Committee at which time the Trust
15 shall hold sufficient funds to complete decommissioning under the schedule approved by
16 the NDFC. (RSA 162-F:14 VII). The schedules of payments are calculated using the
17 Funding Date as the latest date when payments could be received. In NDFC Docket 2019-
18 1, the Committee extended the funding date from 2030 to 2050 based on the 20-year license

1 extension awarded to Seabrook Station in March 2019, and its continued strong operational
2 performance. The Funding Date shall continue to coincide with the current operating
3 license expiration date of March 15, 2050.

4 **C. Escalation**

5 Escalation is the assumed rate at which the cost of decommissioning increases from
6 year to year. The Committee approved the current rate of 3.50% during the 2015
7 comprehensive review (*See*: NDFC 2015-1 Final Report and Order at 1). It will remain at
8 3.50% until modified by the Committee.

9 **D. Inflation Rate**

10 An inflation adjustment is applied to the schedules of payments after the projected
11 cost of decommissioning is established. The contribution requirements (if any) increase
12 each year by the inflation rate. The purpose of the inflation adjustment is to avoid inter-
13 generational transfers of decommissioning obligations that would result if different
14 generations of customers paid an equal nominal amount toward decommissioning, without
15 regard for the decrease in the value of those dollars over time. The assumed inflation rate
16 will remain at 2.75% until modified by the Committee.

17 **E. Trust and Escrow Earnings Assumptions**

18 In the Docket 2020-1 FRO, the Committee approved the Joint Owner's request
19 made at the recommendation of LCG that the assumed rates of return on the Core and Core
20 Plus fixed income Trust investments be lowered from 5.65% and 5.75% to 4.25% and
21 4.45%, respectively.

22 The total portfolio return assumption for the Trust is 7.32% based on the approved
23 rates of return for all asset types. The Investment Consultant characterizes this assumed

1 return as “reasonable if not conservative with respect to historical data.” (Exhibit 2 at 3).
2 The Committee approves continuation of the assumed rates of return.

3 **F. Coverage Ratio**

4 The NDFC established the coverage ratio requirement to ensure that sufficient cash
5 would be available to promptly complete necessary activities during the seven years of
6 active decommissioning. Presently, active decommissioning is forecasted to be from 2050
7 to 2056. This requirement is one of the assumptions used to calculate the schedules of
8 payment. During that period, a sum of funds for each Joint Owner is to be held in cash,
9 cash equivalents, and high quality fixed income securities at every point during each
10 calendar year. That sum must be equal to no less than 3.3 times the following calendar
11 year’s anticipated decommissioning expenditures (*See*: NDFC 2019-1 FRO at 23-24). The
12 coverage ratio sets a floor on the amount of liquidity available during the dismantlement
13 period without relying on the forced or untimely liquidation of equities, which mitigates
14 the disruption of investment performance in the Trust. The Committee approves
15 continuation of the same coverage ratio assumptions.

16 **G. Allocation Targets**

17 The investment guidelines allow a maximum allocation to equities of 70%, applied
18 to each Joint Owner’s total asset value at the time the equity holdings are purchased. If the
19 Joint Owner’s actual investments in equities are within +/- 3% of the Joint Owner’s target
20 when the schedules of payments are approved by the NDFC, the targeted allocation is
21 assumed in calculating the funding schedules. Otherwise, the target or actual allocation,
22 whichever is lower, is used (*See*: NDFC Docket 2015-1 FRO at 44). The 3% bandwidth is
23 designed to minimize the need to time the market in order to meet the requirements of the

1 funding schedules and the Investment Guidelines, as well as optimize the timing of periodic
2 portfolio rebalancing. The Committee finds no reason to change these assumptions at this
3 time.

4 **H. Release of Escrow**

5 In NDFC 2019-1, the Committee granted NextEra's request for the release of
6 approximately two-thirds of the balance of its Escrow, or \$16.6 million, (*See*: NDFC
7 Docket 2019-1 Exhibit 15 at 4) and also released all but \$500 of the Escrow balances of
8 Taunton and Hudson.

9 In this Docket, MMWEC, which had heretofore opposed any release of Escrow
10 funds, has requested the release of all but \$500 of its Escrow balance or about \$12.1 million
11 pursuant to a vote of the MMWEC Board of Directors. (Exhibit 9 at 3). The Committee
12 approves MMWEC's request for the same reason that it had approved the other Joint
13 Owner Escrow release requests: the projected overfunding level in MMWEC's Trust
14 balances. By sworn affidavit (Exhibit 9) MMWEC states that it will establish a trust for
15 the purposes of holding and investing the released Escrow funds in accordance with
16 investment guidelines applicable to the trust for the purposes of fulfilling decommissioning
17 obligations. The Committee takes note of this but will have no authority over such trust.

18 **I. Funding Assurances**

19 Funding assurances are required of all non-utility owners of Seabrook Station.
20 (RSA 162-F: 21-a, III). The NDFC may impose a funding assurance requirement to ensure
21 recovery of decommissioning costs in the event there is a premature permanent cessation
22 of operations. (RSA 162-F: 19. IV). In NDFC Docket 2002-2, the NDFC established
23 funding assurance requirements for NextEra, which included a guaranty by its indirect

1 parent company, NextEra Energy Capital Holdings (formerly FPL Group Capital, Inc.),
2 which in turn is backed by a guaranty from the holding company, NextEra Energy, Inc.
3 (formerly FPL Group, Inc.).

4 Certain financial assurance triggers were established as a condition of the NDFC's
5 approval of the NextEra (then FPL Group) purchase of Seabrook Station in 2002 which
6 require NextEra to notify the NDFC of significant changes to its financial health and to
7 take steps such as additional payments to mitigate the chances of underfunding. The
8 triggers are based on operating income, debt to capitalization ratio, sale of all or part of the
9 regulated utility in Florida, and missing decommissioning payments. None of the triggers
10 have ever been reached. NextEra has grown significantly since 2002, and the Committee
11 requested that NextEra conduct a review for this docket to see if the triggers are still
12 appropriate or should be changed. (*see* Docket 2020-1 FRO at 18). Although NextEra
13 argues in the Stipulation that the need for the financial triggers has been overtaken by time
14 and financial performance, they suggest deferring this issue to the point where NextEra's
15 Trust balance exceeds its share of the total decommissioning cost which could come as
16 soon as 2022. In the event that this crossover actually occurs or is projected to occur in
17 2022, the Committee requests that NextEra and NDFC Counsel present a proposal for
18 modification of these "triggers," as appropriate.

1
2

Chart 4
Status of NextEra Funding Assurances and Triggers

Event	Result	2020 Status
NextEra Energy Seabrook fails to make a scheduled payment to the decommissioning fund	<ul style="list-style-type: none"> ➤ In addition to scheduled 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	<ul style="list-style-type: none"> ➤ 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 80% of FP&L's generation assets in 2020.
NextEra Energy's Funded debt to total Capitalization exceeds 0.65:1.00	<ul style="list-style-type: none"> ➤ NextEra Energy Seabrook will not pay any cash dividends or other transfers to NextEra Energy, /or/ ➤ NextEra Energy Seabrook may 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 	The adjusted total debt to capital ratio was 49.1% as of 12/31/2020. [Exhibit 1 at 11]
NextEra Energy's operating income falls below \$800 million	<ul style="list-style-type: none"> ➤ 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 NextEra Energy Annual Report (10K), operating income was \$5,046 million as of year-end 2020.
NextEra Energy's operating income falls below \$600 million	<ul style="list-style-type: none"> ➤ 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 	According to the NextEra Energy Annual Report (10K), operating income was \$5,046 million as of year-end 2020.

3 The Committee is satisfied that the financial capability of NextEra Energy
4 Seabrook, as backed by the funding assurances of NextEra Energy, Inc., remains sufficient

1 to fund NextEra Energy Seabrook’s decommissioning obligation, even in the event of a
2 permanent premature cessation of operations.

3 The Committee previously determined that Taunton, Hudson, and MMWEC are
4 subject to contractual and statutory obligations that cannot be voided, even by resorting to
5 bankruptcy by means of employing the current Bankruptcy Code, and that additional
6 funding assurances were not required of those Seabrook Joint Owners (*See*: NDFC Docket
7 No. 2008-1 Final Report and Order at 21 – 29).

8 **J. Contributions**

9 Since all of the Joint Owners are overfunded, the 2022 schedules of payments
10 require no contributions from any of the Joint Owners.

11 **K. Schedules of Payments**

12 The schedules of payments for 2022 shall be updated to reflect the latest available
13 Trust balances as of November 30, 2021. The input assumptions and other requirements
14 of the Final Report and Order shall be used in establishing the 2022 schedule of payments.

15 **L. 2022 Annual Report**

16 NextEra is to file, no later than March 31, 2022, an independent auditor’s report of
17 the Seabrook Nuclear Decommissioning Financing Trust Fund and Escrow Fund as of
18 December 31, 2021.

19 The 2022 Annual Report required by RSA: F-22.II shall be filed by May 31, 2022.
20 NextEra shall include their proposal to replace the existing funding assurance triggers.
21 Additional filing requirements may be imposed based upon comments on this Preliminary
22 Report and Order and the submission of the 2022 schedules of payments as required herein.

1 **V. CONCLUSION**

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

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

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

9 **FURTHER ORDERED**, that the schedule of payments for 2022 shall be
10 calculated using the assumptions delineated in the Summary of Findings of this Preliminary
11 Report and Order and as supplemented and/or revised in the Final Report and Order issued
12 following the final public hearing to be conducted no sooner than 30 days after the release
13 of this Preliminary Report and Order; and it is

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

18 **FURTHER ORDERED**, that the balance of MMWEC's share of the Escrow fund
19 shall be released to MMWEC, except for \$500, no later than 90 days after the issuance of
20 the Final Report and Order; and it is

21 **FURTHER ORDERED**, that NextEra Energy Seabrook is to file no later than
22 March 31, 2022, an independent auditor's report on the Seabrook Nuclear
23 Decommissioning Financing Trust Fund and the Seabrook Escrow Fund as of December
24 31, 2021; and it is

25 **FURTHER ORDERED**, that the 2022 Annual Report is to be filed no later than
26 May 31, 2022, and it is

1 **FURTHER ORDERED**, that any party to this proceeding wishing to comment on
2 this Preliminary Report and Order shall file written comments with the NDFC no later than
3 November 15, 2021 and provide a copy to all parties on the same date; and it is

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

9 This is a Preliminary Report and Order of the NDFC prepared pursuant to RSA
10 162-F:21, III. A Final Report and Order will be issued after the Committee has reviewed
11 all comments received regarding this Preliminary Report and Order, and following the
12 review of all comments submitted at the hearing to be held in the Town of Seabrook, New
13 Hampshire.

14 This Preliminary Report and Order is released on October 25, 2021.