

THE STATE OF NEW HAMPSHIRE
NUCLEAR DECOMMISSIONING FINANCING COMMITTEE
DOCKET NO. NDFC 2004-1

FINAL REPORT AND ORDER

Concord, New Hampshire
November 22, 2004

1 THE STATE OF NEW HAMPSHIRE
2 NUCLEAR DECOMMISSIONING FINANCING COMMITTEE
3 DOCKET NO. NDFC 2004-1

4
5 FINAL REPORT AND ORDER
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8 I. SUMMARY OF FINDINGS
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10 The Nuclear Decommissioning Funding Committee (NDFC or Committee)
11 conducted the annual review of the Decommissioning Trust Fund (Decommissioning
12 Trust or Fund) as required by RSA 162-F:22. The Committee considered the evidence
13 presented and made the following findings to ensure that prompt, safe, and orderly
14 decommissioning of Seabrook Station can occur.

- 15 1. The funding date will remain 2026.
- 16 2. The projected cost of decommissioning is \$640.7 million, when expressed in
17 2004 dollars.
- 18 3. The inflation adjustment applied to the schedule of payments will remain
19 3.0%.
- 20 4. The escalation adjustment applied to the schedule of payments will remain
21 4.5%.
- 22 5. The earnings assumptions approved in NDFC Docket 2003-1 remain
23 acceptable and will be used in calculating the schedule of payments.
- 24 6. The funding assurances from FPLE Seabrook, LLC will remain unchanged.
- 25 7. The funding assurance escrow account established in NDFC Docket 2003-1
26 will continue to be used.

27 The Committee's findings are discussed in detail in this Report and Order.

1 II. PARTIES AND THEIR POSITIONS

2 The entities granted full party status were the Massachusetts Municipal Wholesale
3 Electric Company (MMWEC), the Seacoast Anti-Pollution League (SAPL), and FPL
4 Energy Seabrook, LLC as managing agent of Seabrook Station (FPLE or Managing
5 Agent). The parties produced a Stipulation addressing all issues (Exhibit No. 2), with
6 FPLE and SAPL supporting all provisions of the Stipulation. MMWEC supported all
7 provisions of the Stipulation except the conclusion that FPLE's current funding assurances
8 are sufficient. Exhibit No. 2, Section 7.3. These parties participated in the public
9 hearings of October 8, 2004 and November 22, 2004.

10 Taunton Municipal Lighting Plant (Taunton) and Hudson Light and Power
11 Department (Hudson), both owners of minority interests in Seabrook Station, were
12 notified of the Docket, but chose not to participate. In the absence of direct participation,
13 the NDFC assumes that Taunton and Hudson are deemed to be represented by the
14 Managing Agent for Seabrook Station.

15

16 III. PROCEDURAL HISTORY

17 The Order of Notice for this docket was issued on June 30, 2004. Timely notice of
18 the proceeding was provided to the public by publication in newspapers on July 5, 2004
19 and filing with the Town of Seabrook Selectmen's Office on July 2, 2004. The first pre-
20 hearing conference was held on July 14, 2004, during which the parties agreed to a
21 proposed procedural schedule and docket scope. On August 12, 2004, the NDFC issued
22 Order No. 1 adopting the proposed procedural schedule and scope suggested by the
23 parties. On August 24, 2004, the Seabrook Station 2004 Annual Report (2004 Annual
24 Report) was filed (Exhibit No. 1). Numerous pre-hearing conferences were held by the

1 parties prior to the public hearing. A Stipulation of the Parties was filed on September 30,
2 2004, and the signed Stipulation (Exhibit No. 2) was presented at the hearing on October
3 8, 2004. Final exhibits from FPLE in response to requests of the Committee at the
4 hearings were filed on October 13, 2004.

5 A public hearing was held on October 8, 2004, at the Public Utilities Commission
6 in Concord. Two witnesses appeared during the public hearing: John Aubrecht,
7 Executive Director of FPL Energy and Stephen Hale, Project Manager, Power Uprate
8 Project - Seabrook Station, for FPL Energy. The witnesses testified to the substance of an
9 affidavit provided by James Peschel, FPLE Regulatory Programs Manager, (Exhibit No.
10 3) and an affidavit of Alan J. Gould, Senior Staff Engineer for Florida Power and Light
11 Company (FPL) (Exhibit No. 5). An affidavit of Moray Dewhurst, Chief Financial
12 Officer of FPL Group, Inc., addressed the ways FPL was repairing the damage caused by
13 hurricanes in Florida (Exhibit No. 6).

14 The Preliminary Report and Order was issued on October 19, 2004, and delivered
15 to the town offices of the Town of Seabrook on October 21, 2004. As required by RSA
16 162-F:21, IV, a public hearing was held at the Seabrook Town Hall at 7:00 pm on
17 November 22, 2004. Notice of the hearing was published in the Manchester Union
18 Leader before November 15, 2004, as required by the NDFC, and displayed in two public
19 places in Seabrook, NH. A Certificate of Publication was provided by the Managing
20 Agent on November 17, 2004.

21 The Seabrook owners and SAPL were represented at the November 22, 2004
22 hearing. Mr. Christopher S. Nord addressed the NDFC to present information on
23 changing the storage of spent fuel at Seabrook Station. According to Mr. Nord, the
24 changes recommended in two articles he provided could decrease the cost of storage in the

1 near term and increase security. The NDFC accepted copies of the articles Mr. Nord
2 provided and took his suggestions under advisement.

3 IV. DISCUSSION

4 In this Docket the Committee completed the annual review of the
5 Decommissioning Trust performance and funding assurances, as required by RSA 162-
6 F:22, II. During the annual review, the schedule of payments is adjusted to ensure full
7 funding of the decommissioning obligation. Ibid. Each of the areas reviewed is
8 discussed in the following sections.

9 A. The Projected Cost of Decommissioning

10 The projected cost of decommissioning was established in NDFC Docket 2003-1
11 at the completion of a comprehensive review of the Seabrook Station decommissioning
12 plan and cost estimate, pursuant to RSA 162-F:22, I. The projected cost of
13 decommissioning is defined as the current best estimate of the cost to decommission
14 Seabrook Station in 2003, assuming Seabrook Station is in the same condition at the end
15 of its expected license life in 2026. The decommissioning plan, and corresponding cost
16 estimate, included two contingencies that make the cost estimate a conservative one. The
17 first was the Delay Contingency of five years in the completion and availability of the
18 permanent repository for spent fuel that the Department of Energy (DOE) has proposed
19 for the Yucca Mountain site in Nevada. With the contingency, it is estimated that
20 Seabrook Station will first release spent nuclear fuel and other High Level Radioactive
21 Waste (HLRW) to DOE in 2025, approximately one year before the termination of the
22 current operating license, and fifteen years after the date DOE currently expects that the
23 Yucca Mountain facility will be available for spent fuel storage.

24 The appropriateness of using the Delay Contingency is reinforced by recent

1 litigation concerning Yucca Mountain. Exhibit No. 5; TR. at 25. With the Delay
2 Contingency, the NDFC finds there is no need to adjust the projected cost of
3 decommissioning at this time to account for the projected cost of HLRW disposal.

4 The other contingency approved in Docket 2003-1 was in the cost calculation for
5 Low Level Radioactive Waste (LLRW). There has been no significant change in the cost
6 of LLRW disposal or in the vendors used to process that disposal, and Seabrook Station
7 has not been advised of any impending changes. Exhibit No. 5; TR. at 24. Without any
8 significant changes in the cost of LLRW disposal, the LLRW contingency is sufficient to
9 moderate the impact of an unforeseen cost increase and the Committee finds there is no
10 need to adjust the projected cost of decommissioning at this time to account for increases
11 in the cost of LLRW disposal.

12 The parties requested that the projected cost of decommissioning be adjusted, on a
13 one-time basis, so that the projected cost of decommissioning will be expressed in the
14 same manner and stated in equivalent dollars as the annual contribution, expenses and
15 Fund balance on the schedule of payments. Exhibit No. 2, Section 5.9. Currently, the
16 projected cost of decommissioning in a given year is expressed in the dollar value of the
17 following year. For example, the 2003 projected cost of decommissioning, as shown on
18 the current schedule of payments, was \$599.7 million expressed in 2003 dollars, but
19 presented in the row headed "December 31, 2002." Exhibit No. 2, Section 3. The parties
20 have recommended realigning the cost estimate so that it appears in the row that
21 corresponds with that same year's Trust Fund balance. The Committee agrees and finds
22 that this adjustment will eliminate confusion and make it easier to understand the
23 schedules. Therefore, the NDFC accepts the adjustment. Accordingly, the projected cost
24 of decommissioning as of December 31, 2003 will be adjusted to be \$613 million. Exhibit

1 No. 2, Section 5. The projected cost of decommissioning as of December 31, 2004 will be
2 \$640.7 million. Exhibit No. 1, Attachment A, Exhibit 4.

3 Currently, Seabrook Station is pursuing a power uprate in two phases. If approved
4 by the Nuclear Regulatory Commission (NRC), slightly more nuclear fuel will be used at
5 Seabrook Station than was included in the 2003 Seabrook Station decommissioning plan
6 cost projection. Exhibit No. 3, Sections 11-16. If the power uprates are approved, one
7 additional spent fuel storage canister will be required after the plant ceases operation in
8 2026. The additional canister is estimated to cost \$1.1 million. Ibid. This additional cost
9 is, at present, speculative since the NRC has not approved the power uprates. However, if
10 the uprates are approved, the additional cost will be an insignificant part of the total
11 decommissioning cost, which will be approximately \$2.3 billion and, accordingly, does
12 not require an adjustment to the projected cost of decommissioning at this time. The
13 Committee will consider the adjustment of the spent fuel cost projection as part of the next
14 four-year, comprehensive review.

15 B. Funding Date

16 The Committee must establish the funding date for which the schedule of
17 payments is designed. The funding date is the day on which contributions into the
18 Decommissioning Trust may end because the NDFC believes “the fund shall have
19 sufficient monies to complete decommissioning” on the schedule approved by the NDFC.
20 RSA 162-F:14, V. In NDFC Docket 2003-1, the Committee established the funding date
21 as October 2026, corresponding to the termination of the Seabrook Station operating
22 license. The parties recommend no change to the funding date. The Committee will
23 examine the funding date in each annual review, and finds the funding date should remain
24 unchanged until the next review.

1 C. Earnings and Inflation Assumptions: Escalation Adjustment

2 The parties recommend that the NDFC continue to use the earnings and inflation
 3 assumptions and the escalation adjustment adopted in NDFC Docket 2003-1. Exhibit No.
 4 2, Sections 3 & 5. Since the assumptions were adopted on December 17, 2003, the fund
 5 performance exceeded expectations in 2003 by approximately \$8 million. Exhibit No. 1,
 6 Attachment A, Exhibit 4. When the 2004 Annual Report was prepared in August, the
 7 fund balance for 2004 was projected to be \$3 million below the 2004 year-end balance
 8 projected in NDFC Docket 2003-1. Ibid. The reasons for adopting each assumption and
 9 escalation adjustment are fully detailed in the Final Report and Order, NDFC Docket
 10 2003-1, and will not be repeated here. With the decommissioning fund exceeding
 11 expectations, the Committee agrees that the basis for establishing the assumptions used to
 12 produce the schedule of payments should remain as:

- 13 • 3% inflation
- 14 • 4.5% escalation
- 15 • investment earnings assumptions for each fund as set forth in the following
- 16 chart.

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

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D. Schedule of Payments: December Reset

In NDFC Docket 2002-2, the NDFC began the practice of establishing the schedule of payments for the following year based on Fund balance information at the end of the year. This approach permits the best full-year estimate of earnings during the year to be recognized when setting contribution requirements for the next year. The NDFC notes it will continue this practice, with adjustment.

The parties requested a change to the practice of excluding projected earnings and expenses for December. The parties correctly observed that this methodology understates the year-end Fund balance. The NDFC considered including the projected December earnings in prior dockets and declined to make the change, pending further experience with setting the schedule of payments at the end of the calendar year. The results of the past two years confirms that the current practice of excluding projected earnings for December will understate year-end balances, and the gap between the projected and actual year-end Fund balance will only increase as the size of the Fund grows. While no projection will be perfect, including approved earnings projections will improve the quality of the basis for calculating the schedule of payments in December.

Accordingly, the schedule of payments for 2005 will be established in December 2004 using the Decommissioning Trust and funding assurance escrow account market values as of November 30, 2004, plus the December escrow contribution and the projected earnings, minus projected expenses for both the Decommissioning Trust and funding assurance escrow account as approved in NDFC Docket 2003-1.

The filing and review of the schedule of payments will be a compliance filing by FPLE, which will require approval of the NDFC as part of this Docket before the schedule

1 will take effect, but no additional hearings will be required.

2 E. Premature Cessation of Operation

3 The Committee requires the owners of Seabrook Station to provide funding
4 assurance sufficient to ensure payment of their proportionate share of the full
5 decommissioning cost of the facility including full funding for decommissioning in the
6 event of a premature cessation of operations. RSA-F:21. In prior dockets the NDFC
7 established funding assurances for FPLE (NDFC Docket 2002-2 Final Report and Order)
8 and for all Seabrook Station owners (NDFC Docket 2003-1 Final Report and Order). In
9 2001 the Committee decided that, in the event of a premature shutdown before 2015, the
10 actual demolition of the Seabrook Station could be delayed until 2015. NDFC Docket
11 2001-1 Final Report and Order. The Committee will continue to use this planning tool for
12 meeting the need to address the possibility of premature cessation of operations.

13 F. Funding Assurances

14 Funding assurances are required of all non-utility owners of Seabrook Station.
15 RSA 162-F:21-a, III. The NDFC may impose a funding assurance requirement to ensure
16 recovery of decommissioning costs in the event there is a premature permanent cessation
17 of operation. RSA 162-F:19, IV.

18 In Docket No. 2002-2 the NDFC established funding assurance requirements for
19 FPLE, which included a guaranty by its indirect parent company, FPL Group Capital, Inc.,
20 which is backed by a guaranty by the holding company, FPL Group, Inc. Since that time,
21 the financial health of FPL Group, Inc. and its utility subsidiary, FPL, has remained
22 strong, even with the series of hurricanes this year. Exhibit No. 6. Similarly, Seabrook
23 Station continues to perform better than the industry averages. Exhibit 1, Attachment B
24 (Tables 1 and 2). Based on the record, the NDFC holds that the existing FPLE funding

1 assurances will remain in place until the next annual review by the NDFC and finds the
2 funding assurances are adequate to meet FPLE's obligations, even in the event of a
3 premature cessation of operation.

4 In NDFC Docket 2003-1, the Committee established a funding assurance escrow
5 into which all Seabrook Station owners deposit 25% of their annual schedule of payments
6 obligation. NDFC Docket 2003-1 Final Report and Order. The first payments were made
7 into the funding assurance escrow in October 2004. TR. at 13. If projections are met, the
8 funding assurance escrow will hold \$10,893,450 by the end of 2007. Exhibit 1,
9 Attachment B. In 2007 the Committee will determine how much, if any, of the funding
10 assurance escrow will be returned to Seabrook Station owners. NDFC Docket 2003-1
11 Final Report and Order. In that docket, the Committee noted that one benchmark for
12 determining whether to release escrow funds into the Decommissioning Trust Fund in
13 2007 would be if the Decommissioning Trust Fund is less than 57% of the projected cost
14 of decommissioning, when calculated by dividing the December 31, 2007 Trust Fund
15 balance by the December 31, 2006 decommissioning cost projection. Ibid. That
16 benchmark was calculated using a schedule of payments that, as discussed in section IV,
17 A, presented the projected cost of decommissioning in a different value than other items in
18 each year. The parties correctly noted that with the adjustment of the projected cost of
19 decommissioning adopted by the Committee, the 2007 benchmark assumption should be
20 adjusted to 55.5%, to reflect the proper alignment of the projected cost of
21 decommissioning on the schedule of payments. Exhibit 1, Section 5.11. Exhibit 3,
22 Section 5.

23 The NDFC accepts the parties' recommendation that the benchmark be adjusted to
24 55.5% to reflect the realignment of the projected cost of decommissioning. At the same

1 time, the Committee reiterates that the ultimate distribution of the funding assurance
2 escrow will be made solely by the NDFC, and while guided by the considerations set out
3 in the Final Report and Order in Docket No. 2003-1, such as, achieving the Fund balance
4 to target cost percentage of 55.5% or obtaining NRC approval of recapture of the low-
5 power testing time period, the NDFC has complete discretion to decide what portion of
6 the escrow, if any, is returned to the Seabrook Station owners and what portion, if any, is
7 deposited in the Decommissioning Fund. The Seabrook Station owners agree that the
8 Committee has sole discretion over distributions from the funding assurance escrow. TR.
9 at 20. For clarity, with the adjustment noted above, the Decommissioning Trust Fund to
10 target cost rate will be calculated by dividing the December 31, 2007 Trust Fund balance
11 by the December 31, 2007 projected cost to decommission the Seabrook Station.

12 The schedule of payments for 2005 is to be calculated as it was in NDFC Docket
13 2003-1, that is, as if the year-end Fund balance included the funding assurance projected
14 year-end balance. As required by the Final Report and Order in Docket No. 2003-1, in
15 2005 the Seabrook Owners shall make the first 75% of scheduled payments (January
16 through September) into the Decommissioning Trust Fund, and the remaining 25%
17 (October through December) shall be paid into the funding assurance escrow account.

18 G. Audit Results

19 Each year, the Decommissioning Trust is audited with the results reported to the
20 New Hampshire Treasurer and the Trustee. For a number of years the audit has been
21 performed by Howe, Riley & Howe. Exhibit No. 4. The auditor reviews fund activities
22 and provides a final, year-end Decommissioning Fund balance. By contrast, the schedule
23 of payments is calculated using the most recent month-end fund balance provided by the
24 Decommissioning Trust Fund trustee, without recognition of all the liabilities recognized

1 by the auditors. Exhibit No. 2, Section 5. Accordingly, the Fund balance used to
2 calculate the schedule of payments will not be precisely the same as the audit, unless an
3 audit is performed for the month used to produce the schedule of payments. Ibid.

4 Clearly, it would be impractical and unnecessary to require an audit whenever a
5 schedule of payments is produced. At the same time, although not used in the calculation
6 of the schedule of payments on a going forward basis, the historical results of the annual
7 audit should be reflected in the documents reviewed by the NDFC and viewed by the
8 public, most notably on the schedules produced by the Fund manager that report both
9 historical and projected fund balances. For this reason, the audited year-end Fund balance
10 will be presented on the schedule of payments once the audit results are available. The
11 calculation of the schedule of payments will continue to be based on the most recent
12 month-end Fund balance, as provided by the Fund Trustee without all the liability reserves
13 recognized by the auditors. This approach will provide an annual cross-reference of the
14 audit results and the Fund balance, while continuing the flexibility of producing a revised
15 schedule of payments at any point in the year.

16 H. Vermont Yankee

17 The power uprate at Seabrook Station raised a question as to whether the
18 experience at Vermont Yankee with a power uprate should be considered by the NDFC
19 when reviewing the potential impact of the Seabrook Station power uprate on the cost of
20 decommissioning. The parties recognize that the NDFC has no responsibility regarding
21 Vermont Yankee, but want the NDFC to be aware of the experience at that plant. TR. at
22 21; Exhibit No. 2, Section 9. The NDFC appreciates the efforts of the parties to keep the
23 members informed on developments in the nuclear power industry and take administrative
24 notice of the NRC Report SECY-04-0104 “Status Report on Power Uprates.” Exhibit

1 No. 7.

2 I. 2005 Filing Requirement.

3 FPLE is to file an independent auditors' report of the Seabrook Nuclear
4 Decommissioning Financing Fund for the year ending December 31, 2004, no later than
5 March 1, 2005. FPLE is to file the 2005 annual report no later than June 30, 2005. In
6 addition to information previously required to be included, the annual report is to report
7 on the decommissioning fund performance through May 2005.

8

9 V. CONCLUSION

10 For the reasons set forth within this Report and Order, the Committee approves the
11 recommendations of the Stipulation of the Parties and finds that the requirements of RSA
12 162-F for funding decommissioning will be met. The changes set forth herein are
13 therefore adopted.

14

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

16

17 **ORDERED**, that the funding assurance provided by FPLE approved in the Docket
18 2002-2 Final Report and Order shall remain in place and unchanged; and it is

19

20 **FURTHER ORDERED**, that the funding assurance escrow shall be funded at
21 25% of the annual contribution obligation, calculated in December 2004 as required by
22 this Report and Order, to be paid into the escrow only after all contributions to the
23 decommissioning trust have been made for 2005; and it is

24

25 **FURTHER ORDERED**, that payments into the funding assurance escrow are
26 funding assurance obligations, and are not a schedule of payment obligations of the
27 Seabrook owners. Payments into the escrow are obligations imposed by the NDFC and
28 fully enforceable by the Committee; and it is

29

30 **FURTHER ORDERED**, that the schedule of payments for 2005 will be
31 established in December 2004 using the assumptions and terms identified in this Report
32 and Order, calculated using the Decommissioning Fund and funding assurance escrow
33 account market values as of November 30, 2004, plus the escrow account contributions
34 scheduled to be made in December 2004, plus the earnings assumptions for December
35 2004 approved in NDFC Docket 2003-1, minus the December 2004 expenses approved in

1 NDFC Docket 2003-1; and it is

2
3 **FURTHER ORDERED**, that 75% of the 2005 total annual contribution,
4 calculated as set forth in the preceding ordering paragraph, is a schedule of payment
5 obligation that shall be paid into the Decommissioning Trust in equal monthly
6 installments for the months January 2005 through September 2005. The remaining 25%
7 of the 2005 total annual contribution shall be paid into the funding assurance escrow
8 account in equal monthly installments for the months October 2005 through December
9 2005. Notwithstanding the foregoing, payments into the Decommissioning Trust shall
10 continue until at least 75% of the 2005 total annual contribution has been paid into the
11 Decommissioning Trust; and it is

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16 [THE REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

1 **FURTHER ORDERED**, that FPLE file an independent auditors' report on the
2 Seabrook Nuclear Decommissioning Financing Fund for the year ending December 31,
3 2004 no later than March 1, 2005; and it is
4

5 **FURTHER ORDERED**, that FPLE file the 2005 annual report no later than
6 June 30, 2005. The 2005 annual report is to include all information previously required
7 by the NDFC and detail on the Decommissioning Fund performance through May 2005;
8 and it is
9

10 **FURTHER ORDERED**, that FPLE file with the Committee, on or before
11 December 22, 2004, revised schedules of payments and funding assurance schedules
12 conforming to the requirements of this Report and Order.
13

14 Agreed by the Nuclear Decommissioning Financing Committee this the ____ th
15 day of December 2004.

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17 /S/

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19 _____
20 Thomas B. Getz
21 Chairman Public Utilities Comm.

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20 Rep. Robert E. Introne
21 State Representative

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26 Michael A. Ablowich
27 State Treasurer

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25 Clifton C. Below
26 State Senator

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31 _____
32 Scott Bryer
33 Department of Safety

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29 _____
30 Willard F. Boyle
31 Representative of the Town of
32 Seabrook

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36 /S/

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38 _____
39 Jack Ruderman
40 Governor's Office of Energy
41 & Planning

34 /S/

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36 _____
37 Brook Dupee
38 Assistant Director
39 Health & Human Services