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February 13, 2018

Dr. Andrew Bates
Chairman, Licensing Support Network Advisory Review Panel
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Project Number: 689

Subject: Response of the Nuclear Energy Institute to the Licensing Support Network Advisory Review Panel (LSNARP) Request for Comment and Meeting Notice (83 Fed. Reg. 1274) (Jan. 10, 2018)

Dear Dr. Bates:

On behalf of the nuclear energy industry, the Nuclear Energy Institute (NEI)¹ appreciates the opportunity to participate in the upcoming meetings of the NRC Licensing Support Network Advisory Review Panel (LSNARP) on February 27-28, 2018. This meeting is being held to carry out the NRC's responsibilities under the decision of the U.S. Court of Appeals for the District of Columbia Circuit in *In re Aiken County*, 645 F.3d 428 (D.C. Cir. 2011). The meeting is also responsive to the Nuclear Regulatory Commission's July 31, 2017, direction in the Staff Requirements Memorandum associated with COMSECY-17-0019 that a next step in the Yucca Mountain process is for the NRC to initiate information-gathering activities regarding reinstating or replacing the Licensing Support Network ("LSN"). See 83 Fed. Reg. 1274.

As explained in the meeting notice, the LSN was an internet-based electronic discovery database developed to aid the NRC in complying with the schedule for the decision on the construction authorization for the high-level waste repository contained in Section 114(d) of the Nuclear Waste Policy Act of 1982, as amended. See 83 Fed. Reg. 1274, 1276.

In addition to providing information about NEI's meeting participation, this letter also provides NEI's comments on the December 21, 2017 NRC document entitled, "Reconstitution/Replacement Options for the Licensing Support Network (Revision1)" (the "options document").

¹ The Nuclear Energy Institute (NEI) is the organization responsible for establishing unified policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel cycle facilities, nuclear materials licensees, and other organizations and entities involved in the nuclear energy industry.

The functionality of the LSN is very important to the restart of the NRC Yucca Mountain licensing proceeding. NEI commends the LSNARP for taking proactive steps to address challenges to the restoration of the LSN, particularly given the evolution in information technology capabilities since the Yucca Mountain licensing proceeding was suspended. The NRC's options document highlights a number of challenges to the restart of the LSN. NEI's comments are intended to facilitate the NRC's ability to overcome these challenges in the most timely and cost-effective manner possible, thereby allowing the Yucca Mountain licensing proceeding to resume with minimal additional delay.

NEI recognizes that all software and hardware associated with the pre-existing LSN system is now no longer usable. In this regard, we note that as of August 2016, the NRC has made the entire contents of the LSN publicly available on the agency's Agency-wide Documents Access and Management System (ADAMS). Accordingly, we assume that the NRC would be able to do the same thing with any new documentary material. NEI therefore has no reason to believe that the availability of documentary material should in any way constrain the NRC's ability to move forward with the Yucca Mountain licensing proceeding. NEI recommends that NRC resume the Yucca Mountain licensing proceeding in parallel with any targeted rulemaking to amend 10 C.F.R. Part 2 Subpart J to account for functional differences between old and new information technology (IT) infrastructure. Such an approach would surely minimize delay. In the interim, we believe that the NRC's regulatory exemption process is sufficiently robust to support this parallel approach.

NEI Comments on NRC's "Reconstitution/Replacement Options for the Licensing Support Network," Rev. 1 (12/21/17)

As all of the LSN data is now available electronically on ADAMS, thus reducing the IT risk that would be incurred if the data were spread over multiple systems, NEI does not believe it would be constructive to redistribute the documents across the servers of all participants in the licensing proceeding. The NRC staff understands the risks posed by using the existing ADAMS system, and how to best manage those risks. Recreating the LSN in another format necessarily introduces new risks, additional costs, and would require additional time to execute. Recreating the LSN in another format would disadvantage all participants.

NEI's evaluation of each of the NRC's proposed options is set forth below. Page number cites below refer to the Options document.

Option 1 – Traditional Discovery (pp. 7-8):

NEI does not support Option 1. Nor does it appear that the NRC recommends this choice, as the Options document states as follows:

"As discussed in Section 5, the public ADAMS LSN library provides access to the collection of headers/documents that were available through the original LSN at the time it was decommissioned in September 2011. The public ADAMS LSN library is fully searchable by

both content and original LSN header information. Under this new option, for any new documentary material identified by the HLW hearing participants, the participants would exchange those documents with each other through traditional methods such as regular mail, fax, a delivery service, or e-mail. This option does not offer any central mechanism for new discovery material to be distributed to all participants or made available for review by the public. Further, this option does not provide a mechanism to revise or remove headers/documents that reside in the public ADAMS LSN Library.”

The NRC’s discussion of IT system implementation benefits in Sec. 6.6 (pp. 7-8) supports NEI’s conclusion. In sum, the Traditional Discovery option is impractical for many reasons and would almost certainly introduce significant and unnecessary delay into the resumption of the Yucca Mountain licensing proceeding. This option also lacks the appropriate amount of transparency in the licensing process.

Option 2 – Use of Existing Public ADAMS LSN Library (pp. 8-20):

NEI supports Alternative One under Option 2 – Use of existing Public ADAMS LSN Library with EIE modification. See Section 7.3.1, pp. 10-13. We believe Option 2, Alternative One offers access to both existing and new documentary material to both adjudication participants and the public at the lowest cost, shortest implementation timeframe, and lowest risk score. As reflected in the Options document, the NRC also appears to support Alternative One as offering implementation benefits and “no significant disadvantages.” See Tables 7.5 and 7.6.

The use of digital certificates to authenticate submissions would assure LSN security. Furthermore, Option 2 Alternative One would be the easiest on licensing proceeding participants, provide an efficient and expedient method to make content available within 24 hours of posting, and establish a consistent interface for LSN content.

In further considering Alternative One, we suggest that the NRC re-examine its cost estimate, as the \$800-\$1,500K estimate seems high for something that would appear to have negligible impacts on the existing ADAMS repository.

NEI takes no position on Option 2, Alternative 2, but would be willing to discuss it as a potential second choice if NRC determines that Alternative 1 cannot be implemented.

Option 3 – Move to the Cloud (pp. 20-37):

NEI does not support this option. Moving documentary material to the Cloud would increase cost, increase technology risk, and create unnecessary schedule delay.

The Options document concludes that an NRC-maintained cloud-based alternative has a moderate-to-high IT system implementation risk, as well as potential risk in developing the interface that pushes

headers/documents from the internal ADAMS LSN Library out to the cloud-based system provider. Further, NRC finds that the participant-maintained cloud-based alternative also would have a high IT system implementation risk. *See* discussion in Sec. 8.5 and Tables 8-4, 8-5, and 8.6 (pp. 35-36). The Options document further finds in Sec. 8.6 and Tables 8-7, 8-8, and 8-9 that the advantages of Option 3 may be offset by the disadvantages.

Option 4 – Rebuild the Original LSN (pp. 37-43):

NEI does not support this option. The cost required to implement this option would be unreasonably high, and the time required would be unreasonable. *See* Sections 9.4-9.5 (pp. 40-42). The Options document reaches the same conclusion. *See* discussion of IT system implementation risks/challenges in Sec. 9.6 and the NRC's statement in Section 9.7 that: "Reconstituting the LSN in its original form offers no significant advantages. It does, however, offer significant non-technical disadvantages in terms of cost, schedule, and federal IT policy." We agree. Moreover, rebuilding the LSN would constitute a significant investment in obsolescence with an uncertain future.

Industry Plans to Participate in the February 27 and 28 LSNARP Meetings

We thank NRC for rescheduling these meetings so that LSNARP members could have more time to evaluate the proposed options (or additional options) for LSN replacement/reconstitution.

At this time, we would like to confirm that NEI will be represented on these dates by Mr. Rod McCullum, Mr. John D. McIntire (Executive Director and Chief Information Officer, NEI), Ms. Anne W. Cottingham (Associate General Counsel, NEI), Ms. Kaitlin Rekola (Staff Counsel, NEI), and possibly Ms. Ellen C. Ginsberg (Vice President and General Counsel, NEI).

If NEI decides to ask other staff to participate remotely, we will inform you as soon as possible. NEI reserves the right to send other participants if, in our discretion, it is appropriate to do so. Should that occur, we will so inform the LSNARP as soon as possible.

Finally, the January 10, 2018 federal register notice requested that the LSNARP member indicate whether or not they intend to make a presentation at the February 27-28 meetings. NEI does not intend to make a presentation.

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NEI looks forward to continuing to engage with the NRC on Licensing Support Network matters as the Yucca Mountain licensing proceeding moves forward. We believe it is important that the NRC be in a position to move forward expeditiously once the proceeding is funded, and having a fully functional LSN is necessary for this to happen. If you have any questions or require additional information, please do not hesitate to contact me (rxm@nei.org) or Ellen Ginsberg (ecg@nei.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Rod McCullum". The signature is stylized and cursive.

Rod McCullum