

NOTATION VOTE

RELEASED TO THE PDR

RESPONSE SHEET

10/15/96
date

AKW
initials

TO: John C. Hoyle, Secretary

FROM: COMMISSIONER DIAZ

SUBJECT: SECY-96-178 - ACTION PLAN TO ADDRESS
OUTSTANDING LSS ISSUES

Approved ☒ Disapproved Abstain

Not Participating Request Discussion

COMMENTS: I approve the strategies discussed in the paper with the proviso that the negotiated rulemaking be targeted to the 6 months time frame mentioned in Mr. Levin's response to my staff's questions.


SIGNATURE

Release Vote ☒

9/24/96
DATE

Withhold Vote ☐

Entered on "AS" Yes ☒ No

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P.2 Secy states that DOE would start procurement in Feb '97.

Q. With the cuts in the DOE budget, is this still the DOE target date?
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A. According to our latest conversations with DOE, they still plan to begin serious procurement activities in February '97. In fact, they're getting anxious to hear which way the Commission wants to go so they can finalize their plans.

P.8 Last sentence of second full paragraph states that the pilot program (using real HLW documents) should be operational August 31, 1996.

Q. Is the system up?

A. The system is up and we're starting to get feedback on its use. It can be accessed via Netscape or Mosaic at <http://go!iath.cnwra.swri.edu:2080/index.html>

P.9 First two full paragraph note that a comprehensive rewrite of Part 2 could not be done in time to support LSS, but a standalone LSS effort could be expedited.

Q. How long is the comprehensive rewrite of Part 2 expected to take?

A. Since no rulemaking plan has yet been prepared for Commission review and approval, there is no current estimate. Using standard agency assumptions, however, rulemaking is estimated to take two years from the date of Commission approval of the rulemaking plan. Thus, the earliest completion date would be late 1998 which is not soon enough for DOE's current schedule for LSS design.

Q. When do you plan to have the standalone completed?

A. The standalone rulemaking effort referenced in the paper is assumed to be narrow in scope and limited to updating the technological assumptions underpinning the LSS approach. The LSS advisory committee would be used to obtain early feedback. The SMT believes that a standalone rulemaking effort can be defined so that the most controversial issues such as the scope of discovery, topical guidelines, identification of parties, contention requirements, etc. are left as currently described in Part 2. The narrower effort would focus on changes necessary to permit use of internet or intranet commercial technology to build the LSS database. This approach would permit the Commission to give DOE an early decision that the construction of a large standalone system with remote dial-up access would not be necessary to meet the LSS requirements of Part 2. Thus, while the rulemaking effort might take up to two years, the Commission decision DOE needs to modify its planning assumptions would be made as a part of its action on the paper the SMT submits as the follow-up to this paper.

Q. When do you realistically expect to need the availability of the LSS functionality?

- A. Background: When the LSS was originally conceived, it was assumed that its functionality would be available early so that discovery could be minimized when DOE submitted its application. In the years since, the original schedules have been substantially modified, the issue tracking system has been eliminated, documents have not been collected, and the LSS has not been built. Consequently, it would not be possible for the LSS administrator to make the certifications required even if all the technical functionality were obtained. As originally designed, the LSS was to have saved time in two substantial ways: 1) electronic filing, thus eliminating the time allowed for mail of motions and pleadings; and 2) electronic document production, thus eliminating the time for travel, document copying, indexing, and file review. The savings from electronic filing can still be realized. Some savings associated with electronic document production may also be possible but such predictions are most uncertain given the current state of LSS development. Consequently, the SMT hopes that DOE, NRC, the state, local governments, Indian tribes, and other interested parties will cooperate with the web-based approach which will be substantially more cost-effective and holds promise for recovering some of the opportunities lost with respect to early document capture and issue identification. The longer it takes to start using the technology, however, the less likely that parties will agree to rely upon it as the source for document discovery.

LSS functionality is therefore needed as soon as possible if one continues to plan for an adjudicatory phase of NRC licensing that is accomplished in an 18 month time-frame following an 18 month staff review.

- P.9. How much time do you envision the negotiated rulemaking/consensual approach would take?
- A. If done on-line with some of the RuleNet tools developed for consensus evaluation, and if staff resources were focussed on making it a priority, the effort should take approximately six months. If done on a more leisurely schedule, it could be done in normal rulemaking space of 18-24 months.
- Q. Do you have a feel for the resources that we would need to devote to this endeavor?
- A. 1 FTE from OGC and 1 FTE from NMSS and .20 FTE from IRM