

Newsroom

Southern California Edison Serves Formal Notice of Dispute to Mitsubishi over Defective Steam Generators at SONGS

Posted July 18, 2013

ROSEMEAD, Calif., July 18, 2013 — Southern California Edison (SCE) has served a formal [Notice of Dispute](#) on Mitsubishi Heavy Industries, Ltd., and Mitsubishi Nuclear Energy Systems (together, "Mitsubishi") which seeks to hold Mitsubishi accountable for designing and manufacturing defective Replacement Steam Generators (RSGs) at the [San Onofre Nuclear Generating Station \(SONGS\)](#).

"Our action is about making sure that Mitsubishi takes responsibility for providing the defective steam generators that led to the closing of SONGS," said Ron Litzinger, president of SCE.

Although Mitsubishi warranted the generators would operate reliably for 20 years, SCE was required to take SONGS offline in January 2012 when one of the Mitsubishi RSGs experienced a [radioactive coolant leak](#) after less than a year of operation. Although its contract with SCE required Mitsubishi to repair the RSGs "with due diligence and dispatch," SCE's Notice of Dispute alleges that Mitsubishi failed to do so.

Facing continued uncertainty about restoring SONGS to service at any level of power, [SCE permanently retired the plant](#) as of June 2013. SCE alleges that Mitsubishi, as designer and manufacturer of the faulty RSGs, is responsible for the enormous harm its failures have caused to California ratepayers, SCE, and the other SONGS owners.

When SCE contracted with Mitsubishi to replace the SONGS steam generators, it did so to extend the life of SONGS so that the plant could continue to provide safe, reliable and affordable power to over 1.4 million homes in Southern California.

However, SCE's Notice of Dispute claims that Mitsubishi seriously breached the Contract, totally and fundamentally failing to deliver what it promised. SCE alleges that Mitsubishi grossly failed to appropriately model the thermal hydraulic conditions in the RSGs, including the relative wetness of the steam/water mix in the RSGs ("void fraction") and the speed of the steam/water flow within the RSGs ("fluid velocity").

In addition, Mitsubishi is alleged to have failed to design tube support structures capable of withstanding the extreme thermal hydraulic conditions within the RSGs. As a result, the RSGs experienced damaging flow-induced vibration that caused several types of excessive tube wear. The tube-to-tube wear was so advanced in one of the four identically-designed RSGs that it caused a radioactive coolant leak, which SCE was able to address by promptly and safely shutting the plant down.

The Notice of Dispute claims that for over 16 months, SCE has asked Mitsubishi to make things right, but Mitsubishi failed to live up to its contractual obligations. SCE invoiced Mitsubishi for the money SCE was forced to spend investigating and attempting to repair the RSGs, but SCE claims that Mitsubishi has refused to even acknowledge responsibility for any of these costs, even after receiving thousands of pages of documents in support. SCE further claims that Mitsubishi additionally refused to submit to a contractually mandated audit of the documents regarding its work on the RSGs, hindering a transparent look into what went wrong with Mitsubishi's steam generators, and why.

The Notice of Dispute also alleges that SCE asked Mitsubishi to provide a repair or replacement plan that eliminated the risk that these serious problems would reoccur, but after more than 16 months and despite the contract's requirement that it provide repairs "with due diligence and dispatch." Mitsubishi provided only "conceptual" proposals--for example, one proposal would have required workers to perform first-of-a-kind repairs in radioactive, confined areas as narrow as 18 inches, with specialty tools that did not yet exist.

Ultimately, with no reliable timeline for generating power at SONGS, SCE determined that the prudent course of action was to end the uncertainty for its ratepayers and the company and permanently retire SONGS as of June 2013. Such an early retirement is exactly what the Steam Generator Replacement Project was designed to avoid.

SCE's notice, issued today, formally initiates a 90-day dispute resolution process under the Contract. If that process is unsuccessful, then SCE intends to initiate binding arbitration against Mitsubishi, as the designer and manufacturer of the faulty RSGs, to recover damages Mitsubishi has caused.

In the Notice of Dispute, SCE argues that limitations on Mitsubishi's liability set forth in the Contract do not apply because of contractual exceptions and because of provisions of California law. Mitsubishi, like the manufacturer of a "lemon" automobile, was unable to fix the defects in its product because they were so fundamental and pervasive. In this circumstance, SCE claims that the limitations are not enforceable, and Mitsubishi is therefore responsible for the full measure of damages incurred by SCE, the other SONGS owners and their customers.

A copy of the Notice of Dispute is available here: <http://www.SONGSCommunity.com/docs/NoticeOfDispute.pdf>. SCE was required to redact certain portions of the Notice of Dispute that are based on information that Mitsubishi has deemed proprietary and confidential. If Mitsubishi agrees to disclose this information, SCE will release an unredacted copy of the Notice of Dispute.

About Southern California Edison

Contact Us

Media Contact:
Maureen Brown, (626) 302-2255

Investor Relations:
Scott Cunningham, (626) 302-2540

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