



**James P. Avery**  
Senior Vice President  
Electric Transmission

San Diego Gas & Electric  
8330 Century Park Court  
San Diego, CA 92123-1530

Tel: 858.650.6102  
Fax: 858.650.6106  
JAvery@SempraUtilities.com

January 30, 2004

Mr. Harold Ray  
Southern California Edison  
8631 Rush St  
Rosemead, CA 91770

Mr. Gary L. Nolff  
Power Projects/Contracts Mgr.  
Riverside Public Utilities  
2911 Adams St.  
Riverside, CA 92504

Mr. Steve Sciortino  
Integrated Resources Manager  
City of Anaheim  
201 South Anaheim Blvd., Suite 802  
Anaheim, CA 92805

Gentlemen:

Pursuant to Section 6.2.4 of the Second Amended San Onofre Operating Agreement I enclose SDG&E's State of Position respecting a dispute that arose during the January 23, 2003 Board of Review Meeting. I request that we meet as soon as possible to ascertain whether we can resolve this dispute within thirty calendar days as contemplated by Section 6.2.5. If our expectation is that such effort would not be fruitful, I would suggest we proceed directly to a meeting among our respective chief executive officers or their representatives.

Sincerely,

A handwritten signature in black ink, appearing to be "J. Avery", followed by a long horizontal line and a small "for" written at the end.

James P. Avery

JPA/rn

**Statement Submitted  
By  
San Diego Gas & Electric Company**

Pursuant to Section 6.2.4 of the Second Amended San Onofre Operating Agreement (the "OA"), San Diego Gas & Electric Company ("SDG&E") hereby submits to the San Onofre Nuclear Generating Station ("SONGS") Board of Review ("BOR") the following position statement respecting a dispute that exists between Southern California Edison Company ("SCE") and SDG&E concerning whether SCE's proposed 2004 SONGS Capital Budget and 2004 SONGS Operation & Maintenance Budget submitted to the BOR on January 23, 2004 should be rejected, and whether Steam Generator degradation represents an Operating Impairment as defined in the OA.

SCE proposes to file at the California Public Utilities Commission ("CPUC") an application seeking approval for the SONGS Units 2 and 3 steam generator replacement project ("SGR") and rate recovery for associated costs without the BOR's approval for this project to go forward. If carried out, this action would constitute a patently improper attempt to subvert the budgetary approval and dispute resolution processes contemplated by the OA. Further, if SCE proceeds with this rate recovery application without the BOR's approval for the SGR project to go forward, it will be subverting SDG&E's stated intent, as recorded in the BOR minutes, that the BOR's unanimous approval for SCE to obtain a license extension to 2022 before the Nuclear Regulatory Commission ("NRC") did not constitute either an express or implied approval that SONGS Units 2 and 3 should continue to operate beyond the original NRC license termination date of 2013.

SCE's proposed rate recovery filing will compel SDG&E to oppose the SGR project before the CPUC because SCE has failed to utilize the contractually contemplated means of addressing whether this substantial capital project should go forward. SCE's unilateral filing of such an application constitutes a partial material breach of the OA in that it will frustrate and subvert SDG&E's contractual rights to decide through the BOR whether this immense project is appropriate before the matter is taken to the CPUC for its determination as to whether and to what extent the costs of the SGR are to be recoverable by SCE and SDG&E as electrical corporations subject to the CPUC's jurisdiction. By placing approval of the SGR project before the CPUC prematurely there exists a possibility that the CPUC may find that SCE and SDG&E must recover from their respective customers any cancellation costs associated with contracts entered into to accommodate SCE's proposed in-service dates for the new steam generators of 2009-10. This possible result is unacceptable to SDG&E, which does not believe that the SGR project should proceed at this time.

SCE's premature regulatory plan is a flagrant attempt to improperly avoid SCE's unconditional obligation under the OA to obtain BOR approval of the SGR project and to circumvent the dispute resolution procedures that the parties contemplated when they signed the OA. SCE's act of filing an application with the CPUC for SGR rate recovery without BOR approval of the SGR project would also represent a breach of the implied covenant of good faith and fair dealing, pursuant to which SCE has a duty to perform its obligations under the OA in good faith and not to take actions detrimental to SDG&E's contractual rights.

If SCE proceeds with its regulatory plan at the CPUC and the CPUC approves this project over SDG&E's objection, the Cities of Anaheim and Riverside (the "Cities"), also SONGS Units 2 and 3 co-owners, would not be bound by such a decision because they are not subject to the CPUC's jurisdiction. Approval of the Cities' budgets and rate making applicable to SONGS is solely vested in each respective city council. As a result, the Cities would be within their contractual rights to refuse to approve the SGR project and associated budgets. The SONGS owners would then be contractually obligated to litigate before an arbitrator whether this project should go forward. This outcome demonstrates that SCE's effort to place approval of the project, including the approval of any associated budget, before the CPUC prematurely will result in a waste of valuable time and resources of the SONGS co-owners, intervenors, the CPUC staff, and the CPUC itself through a premature application process.

SDG&E submits that the 2004 Capital Budget should not be approved because the BOR has not yet decided whether or not to proceed with the SGR project. Therefore the budget proposed by SCE, which excludes SGR costs, does not permit the BOR to approve or disapprove SONGS capital expenditures in contravention of Section 6.1 of the OA.

SDG&E submits that the proposed 2004 SONGS Operation & Maintenance Budget should not be approved unless and until such time as the SGR project has been brought before the BOR for its approval. SCE's proposed regulatory course of action puts SDG&E at risk of being assessed overhead costs associated with the SGR project at some point in the future through the Administrative & General charge that SCE assesses SDG&E. For example, SCE might eventually attempt to assess SDG&E a portion of the

costs associated with the preparation of SCE's proposed CPUC filing, including costs associated with any retained firm and environmental assessment efforts.

With respect to the issue of Operating Impairment, it is the position of SDG&E that degradation of the original Units 2 and 3 steam generators represents an Operating Impairment as defined in the OA in that the degradation of the original Units 2 and 3 steam generators constitutes an unplanned event or circumstance that has the reasonably anticipated effect of reducing the Maximum Dependable Capacity as that term is used in the OA, the reliability, or both, of one or more of the units.