

BEFORE THE PUBLIC SERVICE COMMISSION
OF NORTH DAKOTA

Dakota Resource Council,)
Neil and Laura Tangen,)
Myron and Nancy Eberts,)
and Frank and Lucy Hurt,)
Complainants,)
vs.)
GTLE Dakota Plant 1 LLC,)
Respondent.)

Case No. RC-09-032

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PUBLIC SERVICE COMMISSION

RESPONSE OF GTLE DAKOTA PLANT 1 LLC
TO COMPLAINANTS' MOTION
FOR LEAVE TO AMEND AND SUPPLEMENT COMPLAINT

The Complainants in this matter have filed a Motion, dated April 8, 2009, for Leave to Amend and Supplement the Complaint.

The Respondent, GTLE Dakota Plant 1 LLC ("GTLE") hereby responds in opposition to said Motion.

On page 6 of their Motion, the Complainants state that "(t)he primary factual question placed before the Commission by the Complaint relates to the nature of the relationship between the coal processing facility proposed by Respondent and the coal mine or mines that will supply it with coal." This is simply untrue. The issue is whether the GTLE facility will be operated "in connection with" any particular coal mine, not the "nature of the relationship" between GTLE and a potential mine owner or power plant developer.

GTLE filed its Motion to Dismiss, dated April 10, 2009, with the Commission along with supporting brief. GTLE submits that the law and argument set forth in its motion and brief,

which are incorporated herein by reference, provide sufficient justification to deny the Complainants' Motion to Amend Complaint.

GTLE has clearly demonstrated that its proposed facility is merely a demonstration plant to test the commercial viability of its coal beneficiation process. Any ultimate end user would then be licensed to use the technology. That end user would build its own coal beneficiation facility.

The "nature of the relationship" is not the issue. As demonstrated by the PSC in Case No. PU-07-686, there can be a direct connection between a coal mine operator and the developer of coal beneficiation technology. That relationship is not the issue; it is whether the facility is being operated "in connection with" a coal mine.

In this case there is no coal mine in the vicinity of South Heart to be "in connection with." Whether a coal mine is ever developed at South Heart is purely speculative.

Therefore, GTLE respectfully requests the Commission to deny the Complainants' Motion to Amend and Supplement the Complaint, and to grant GTLE's Motion to Dismiss.

Dated this 20th day of April, 2009.

CROWLEY FLECK PLLP
Attorneys for Respondent,
GTLE Dakota Plant 1 LLC
P.O. Box 2798
Bismarck, North Dakota 58502

By 
BRIAN R. BJELLA (#03549)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was on the 30th day of April, 2009, mailed to the following:

Ms. Illona A. Jeffcoat-Sacco
NORTH DAKOTA PUBLIC
SERVICE COMMISSION
600 E. Boulevard Avenue, Dept. 408
Bismarck, ND 58505-0480



BRIAN R. BJELLA