
M E M O R A N D U M

RECEIVED

DATE: June 30, 2009
TO: Mr. Darrell Nitschke, Executive Director
North Dakota Public Service Commission
FROM: Al. Wahl, Temporary Administrative Law Judge
RE: Dakota Resource Council, *et al.*, vs.
GTLE Dakota Plant 1 LLC
PSC Case No. RC-09-32

JUL 01 2009

PUBLIC SERVICE COMMISSION

Enclosed for docketing and filing in the captioned matter is the original order dated June 30, 2009, as issued by me, together with my certificate of service.

26 **RC-09-32** Filed: 7/1/2009 Pages: 4
Order Implementing June 24, 2009 Commission
Motion

Office of Administrative Hearings

Al Wahl

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

OAH File No. 20090071

Dakota Resource Council, *et al.*, Complainants,

vs.

Case No. RC-09-32

GTLE Dakota Plant 1 LLC, Respondent.

O R D E R

On June 24, 2009, the North Dakota Public Service Commission considered the following motions of the respective parties pending in this case:

First, the Commission considered the motion of Dakota Resources Council, *et al.* (DRC), filed April 8, 2009, for leave to amend and supplement its complaint filed January 22, 2009.

Next, it considered the motion by GTLE Dakota Plant 1 LLC (GTLE), filed April 13, 2009, to dismiss DRC's complaint for failure to state a claim upon which relief can be granted or, in the alternative, for summary judgment dismissing that complaint. (GTLE's motion was not specifically responsive to DRC's motion for leave to amend and supplement its complaint. On May 1, 2009, GTLE filed a specific response to DRC's motion for leave to amend and supplement its complaint asserting that the law and argument set forth in its motion and brief provide sufficient justification to deny DRC's motion.)

Next, the Commission considered DRC's separate motions to strike GTLE's motion to dismiss DRC's complaint for failure to state a claim upon which relief can be granted and to refuse or continue GTLE's motion for summary judgment, each filed April 23, 2009.

Upon the Commission's consideration and pursuant to its direction, it is

Ordered, that the motion of Dakota Resources Council, *et al.* filed April 8, 2009, for leave to amend and supplement its complaint shall be, and it hereby is, granted; and it is further

Ordered, that DRC shall forthwith serve and file its amended and supplemented motion; and it is further

Ordered, that motion of GTLE Dakota Plant 1 LLC filed April 13, 2009, to dismiss DRC's complaint filed January 22, 2009, for failure to state a claim upon which relief can be granted or, in the alternative, for summary judgment dismissing the complaint, shall be, and it hereby is, dismissed without prejudice; and it is further

Ordered, that DRC's separate motions to strike GTLE's motion to dismiss DRC's complaint for failure to state a claim upon which relief can be granted and to refuse or continue GTLE's motion for summary judgment, each filed April 23, 2009, shall be, and they each hereby are, dismissed; and it is further

Ordered, that for all further proceedings for this case the parties shall proceed in accordance with the provisions of N.D. Admin. Code Art. 69-02 and the North Dakota Rules of Civil Procedure, as applicable.

Dated June 30, 2009.

State of North Dakota
Public Service Commission

By: 
Al. Wahl, Temporary Administrative Law Judge

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

OAH File No. 20090071

Dakota Resource Council, *et al.*, Complainants,

vs.

Case No. RC-09-32

GTLE Dakota Plant 1 LLC, Respondent.

CERTIFICATE OF SERVICE

The undersigned certifies that complete and correct copies of the order to which this certificate is annexed were delivered to the U. S. Postal Service on June 30, 2009, addressed as follows, for delivery by regular mail:

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Dated June 30, 2009.

OFFICE OF ADMINISTRATIVE HEARINGS


Al. Wahl