

BEFORE THE PUBLIC SERVICE COMMISSION
OF NORTH DAKOTA

Dakota Resource Council,)	Case No. RC-09-032
Neil and Laura Tangen,)	
Myron and Nancy Eberts,)	
and Frank and Lucy Hurt,)	
)	
Complainants,)	
)	
vs.)	
)	
GTLE Dakota Plant 1 LLC,)	
)	
Respondent.)	

GTLE DAKOTA PLANT 1 LLC'S MOTION TO DISMISS
THE FIRST AMENDED AND SUPPLEMENTED COMPLAINT
FOR FAILURE TO STATE A CLAIM
UPON WHICH RELIEF CAN BE GRANTED,
OR IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT

The Respondent, GTLE Dakota Plant 1 LLC, hereby moves the Public Service Commission for an order either dismissing the First Amended and Supplemented Complaint for failure to state a claim upon which relief can be granted pursuant to Rule 12(b) of the North Dakota Rules of Civil Procedure; or in the alterative, for a summary judgment in its favor pursuant to Rule 56 of the North Dakota Rules of Civil Procedure.

In addition, GTL Dakota Plant 1 LLC hereby requests that the Administrative Law Judge (Hearing Officer) certify this motion to the Public Service Commission for a final ruling, pursuant to North Dakota Administrative Code § 98-02-02-08(2). GTL Dakota Plant 1 LLC submits that this motion involves a controlling question of law as to which there is substantial ground for difference of opinion; that a final determination by the Public Service Commission on this motion would materially advance the ultimate termination of the hearing; and to wait until

after a hearing would render the matter moot and impossible for the Public Service Commission to reverse or for a reversal to have any meaning.

Respondent's brief in support of this motion is attached.

Dated this 12th day of August, 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 12th day of August, 2009, mailed to the following:

Derrick Braaten
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Bismarck, ND 58501-4004

Paul Blackburn
Plains Justice
P.O. Box 251
Vermillion, SD 57069

Honorable Al Wahl
Temporary Administrative Law Judge
138 East Edmonton Drive
Bismarck, ND 58503

Ilona Jeffcoat Sacco
North Dakota Public
Service Commission
600 E. Boulevard Ave., Dept. 408
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BRIAN R. BJELLA