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OCT 02 2009

DATE: October 1, 2009

TO: Mr. Darrell Nitschke, Executive Director
North Dakota Public Service Commission

PUBLIC SERVICE COMMISSION

FROM: Al. Wahl *AW* Temporary Administrative Law Judge

RE: Dakota Resource Council, *et al.*, *vs.*
GTLE Dakota Plant 1 LLC
PSC Case No. RC-09-32

Enclosed for docketing and filing in the captioned matter is the original memorandum of procedure for further proceedings dated September 30, 2009, as issued by me, together with my certificate of service.

36 RC-09-32 Filed: 10/2/2009 Pages: 4
Memorandum of Procedure for Further Proceedings

Office of Administrative Hearings

Al Wahl - ALJ

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.

**MEMORANDUM OF PROCEDURE FOR
FURTHER PROCEEDINGS**

There is pending before the Commission the Complainants' first amended and supplemented complaint, together with the Respondent's answer and motion to dismiss the amended and supplemented complaint or, in the alternative, motion for summary judgment. The Respondent's motions are supported by a brief, exhibits and the affidavit of Robert R. French.

The Complainants' have responded to resist the Respondent's motions by a motion pursuant to N.D.R.Civ.P. 56(F) to refuse or continue Respondent's motion for summary judgment. The Complainants' motion is supported by a memorandum and the affidavit of Paul C. Blackburn.

The Respondent has responded to reply to the Complainants' motion.

The Commission's decisions upon the pending motions will determine the further proceedings to be had for this case, and upon the Respondent's motion for summary judgment may be dispositive of this case. That the Commission's decision upon the Respondent's motion for summary judgment may be dispositive of this case and that its decision upon the motion for summary judgment may depend upon its consideration of the other motions, requires that all the

pending motions be determined upon consideration and vote by the commissioners. *See* N.D. Admin. Code § 69-02-04-07(1)(f).

For the reasons stated, the motions now pending in this case are each referred for determination upon consideration and vote by the commissioners

Dated September 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 **MEMORANDUM OF PROCEDURE FOR FURTHER PROCEEDINGS** to which this certificate of service is annexed were delivered to the U. S. Postal Service on ~~September 31~~, ^{OCTOBER 1,} 2009, addressed as follows, for delivery by regular mail:

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OFFICE OF ADMINISTRATIVE HEARINGS


Al. Wahl