

Susman Godfrey Wins Jury Trial and Defeats a \$500 Million Breach of Contract Claim Brought Against Their Client

Dallas, Texas — Susman Godfrey lawyers led a trial team that cleared Luminant of charges that the company breached a major power supply contract with Alcoa and acted in bad faith.

Alcoa claimed that Luminant violated the contract by mismanaging a pollution control project at Luminant's Sandow Unit Four power plant in Milam County, Texas. The power contract between Luminant and Alcoa entitled Alcoa to 398 megawatts of firm power and obligated Alcoa to pay 83 percent of the cost of state-of-the-art selective catalytic reduction (SCR) equipment, which substantially reduces emissions of nitrogen oxides. The SCR cost \$277 million.

Alcoa also alleged that Luminant caused outages of Sandow Unit Four during the spring and summer of 2008 in bad faith. Alcoa asserted that Luminant's conduct required Alcoa to pay a higher contract price for power and caused the closure of Alcoa's aluminum smelter near Rockdale, Texas, in September 2008.

Alcoa sought more than \$500 million in damages.

On June 2, a Milam County jury cleared Luminant of Alcoa's charges. The jury rejected Alcoa's SCR and outage claims and found that Alcoa breached its obligation to pay its share of the cost of installing the SCR. The jury confirmed Alcoa's duty to pay its share of the SCR by awarding Luminant \$10 million that Alcoa currently owes.

Barry Barnett, a partner in Susman Godfrey's Dallas office, served as lead trial counsel for Luminant. Dallas partner Jonathan Bridges and associate Joseph Portera also played key roles in the jury trial, as did Stacey Dore, Associate General Counsel of Luminant parent Energy Future Holdings (fka as TXU Corp.), and Marshall Searcy, partner in the Fort Worth office of Kelly, Hart & Hallman.

"We are grateful to the hard-working people of Luminant for their confidence and to the jurors for their dedication," Mr. Barnett said. "The verdict is a testament to the integrity of our civil justice system and to the importance of keeping promises. It has been an honor to represent Luminant."

"Barry Barnett was magnificent in trying this case," said Rob Walters, EVP and General Counsel of Energy Future Holdings. "We couldn't ask for more able trial counsel than we received from Susman Godfrey and Kelly Hart & Hallman."

Added Luminant CEO David Campbell, "we are a company that cares deeply about our reputation and are dedicated to honoring our responsibilities and commitments. I am delighted the jury agreed with us, and we sincerely thank the team from Luminant and EFH and our trial lawyers at Susman Godfrey and Kelly Hart & Hallman."