

EASEMENT

NORTH CAROLINA

BUNCOMBE COUNTY

This EASEMENT made this \_\_\_\_\_ day of June, 2012, from **BUNCOMBE COUNTY**, a political subdivision of the State of North Carolina (the "County"), and being hereinafter referred to as GRANTOR, to **CAROLINA POWER & LIGHT COMPANY**, a North Carolina public service corporation, **d/b/a PROGRESS ENERGY CAROLINAS, INC.**, hereinafter referred to as PEC;

WITNESSETH:

THAT GRANTOR, for and in consideration of the sum of \$10.00 in hand paid by PEC, the receipt whereof is hereby acknowledged, does hereby grant unto PEC, its affiliates, successors, and assigns, the right, privilege, and easement to go in and upon that certain land situate in Limestone Township, Buncombe County, North Carolina, being more particularly described in the instruments recorded in Book 4895, Page 353, and in Book 4895, Page 358, both Buncombe County Registry; and to construct, install, operate, utilize, inspect, rebuild, repair, replace, remove, and maintain overhead and/or underground facilities consisting of electric, communication, or other related facilities within an easement area hereinafter defined, with the right to do all things necessary or convenient thereto, including the following:

- (a) the right of officers, agents, and workmen of PEC and its contractors to go to and from said easement area at all times over the above-described land by such route or routes, including private roads and ways then existing thereon, on foot or by conveyance, with materials, machinery, supplies, and equipment as may be desirable; provided that, except in emergencies, existing roads and ways thereon shall be used to the extent that they afford ingress and egress to and from said easement area; and to construct, reconstruct, work upon, repair, alter, inspect and in general do any other thing necessary or convenient to maintain and operate said facilities for the purpose aforesaid;
- (b) the right to install and maintain guys, anchors, grounding, counterpoise, and appurtenant devices, together with the right to install at the angle points of its overhead facilities guy wires and guy anchors outside of said easement area for the support of the structures of said overhead facilities;
- (c) the right to clear, and keep cleared, from said easement area all structures (other than fences that existed prior to this EASEMENT with the understanding that such fences may be opened and reclosed or temporarily removed and replaced, or PEC may provide suitable gates therein so that PEC shall have unimpeded access along said easement area) and all trees, undergrowth, stumps, and roots, and to use: (1) lawful chemicals, (2) machinery, and (3) other forms of equipment and devices in so doing;
- (d) the right to cut down at any time and from time to time, in PEC's discretion, any tree standing outside said easement area the length of which tree plus five (5) feet equals or exceeds the distance from the base of such tree (also known as a "danger tree") to the nearest overhead facility or to a point on the ground directly underneath the nearest overhead facility, and to cut and remove any limb or any part thereof from any tree standing outside said easement area when such limb or any part thereof protrudes or is likely to protrude into said easement area;
- (e) the right to construct, install, operate, utilize, inspect, rebuild, remove, and maintain structures, wires, cables, lines, conduits, markers, and other appurtenant devices in conjunction with said facilities with the right to intermingle and interchange the one with the other, and to alter, substitute for, and add other devices from time to time as PEC may deem advisable; and
- (f) the right to install fencing around the easement area, along with the exclusive right to access any fenced portion of the easement area and the right to exclude all other persons, including GRANTOR, from the fenced portion of the easement area.

The aforesaid easement area herein granted is 98.91 feet by 69.05 feet, being more particularly described as follows:

**BEGINNING** at a point, said point being located North 65° 18' 52" West a ground distance of 1,491.00 feet from NCGS Monument "Kelvin" (Northing = '648114.80' and East = '951043.17' (NAD 83 (2007); and thence from said beginning point thus established, South 08° 30' 59" West 69.05 feet to a point; thence North 82° 16' 18" West 98.91 feet to point; thence North 08° 30' 59" East 69.05 feet to a point; and thence South 82° 16' 18" East 98.91 feet to the point and place of the BEGINNING, containing 0.16 acre, more or less, and being shown on the "Proposed Easement Survey on a Portion of Property Owned by Buncombe County", prepared by Martin A. Barnes, PLS of Ed Holmes & Associates Land Surveyors, PA and dated August 22, 2011 (PEC Drawing No. RW-C-10421), a copy of which is attached hereto as Exhibit A and incorporated herein by reference.

It is understood and agreed by GRANTOR that: (1) in the initial clearing of said easement area, any tree cut within said easement area and any danger tree, as defined in paragraph (d) above, cut outside said easement area shall belong to and may be removed by PEC, provided that if any tree is not removed by PEC within a reasonable period of time after being cut, then such tree shall belong to GRANTOR; (2) after the initial clearing of said easement area, any tree cut shall belong to GRANTOR; and (3) the above consideration includes payment for cutting and trimming all trees and no future compensation shall be paid by PEC for any trees cut or trimmed as defined in this EASEMENT.

PEC agrees that it shall be responsible for actual damages to improvements that existed prior to this EASEMENT and annual crops of GRANTOR both inside and outside said easement area on the above-referenced land caused by the construction, installation, operation, utilization, inspection, rebuilding, removal, and maintenance of said facilities, and in going to and from said easement area, and shall be responsible for the breakage caused to any bridge and any extraordinary damage to any road due to heavy hauling to and from said easement area, if claim is made within sixty (60) days after such damages are sustained.

TO HAVE AND TO HOLD said rights, privilege, and easement unto PEC, its affiliates, successors, and assigns, forever.

GRANTOR does hereby covenant with PEC that GRANTOR is lawfully seized of the above-referenced land in fee and has the right to convey said easement area and easement rights; that the same is free and clear from all encumbrances, except for any encumbrances of record or those readily disclosed by a current survey, including but not limited to road, railroad, utility, rights of way, and easements; and that GRANTOR shall warrant and forever defend the title to said easement area and easement rights against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, County of Buncombe has caused this instrument to be executed by its Chairman, attested to by its Clerk, and its seal to be hereunto affixed all by authority duly given by resolution referenced above and of even date herewith this the day and year first above written.

COUNTY OF BUNCOMBE

By: \_\_\_\_\_

David Gantt, Chairman

ATTEST:

\_\_\_\_\_

Kathy Hughes, Clerk to the Board

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

I, \_\_\_\_\_, Notary Public for said County and State, has personal knowledge of the identity of Kathy Hughes, and hereby certifies that said Kathy Hughes, Clerk to the Board, personally appeared before me this day and acknowledged that she is Clerk to the Board of Commissioners of County of Buncombe and that David Gantt is the Chairman of the Board of Commissioners of Buncombe County, and that by authority duly given and as the act of the County of Buncombe, the foregoing instrument was signed in its name by said Chairman, sealed with its official seal, and voluntarily attested to by herself as its Clerk as the act and deed of the County of Buncombe, all by authority duly given by its governing body.

Witness my hand and notarial seal, this the \_\_\_\_ day of June, 2012.

(Notary Seal)

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_