

Prepared By: Karol P. Mack, Associate General Counsel, Duke Energy
Mail To: Duke Energy Carolinas, LLC
Land & Facilities Support Services DEC20A
550 South Tryon Street
Charlotte, N.C. 28202

Site: 000579
Land Unit: 1683853
Project No: 000579-453126

STATE OF NORTH CAROLINA

COUNTY OF GASTON

**RIGHT OF WAY AGREEMENT
AND RELEASE**

THIS INDENTURE, made and entered into this ____ day of _____, 20____, by and between **THE COUNTY OF GASTON**, a Political Subdivision of the State of North Carolina “Grantor” (whether one or more), having a mailing address of 212 West Main Street, Gastonia North Carolina 28052, and **DUKE ENERGY CAROLINAS, LLC**, a North Carolina limited liability company, “Grantee”, having a mailing address of 550 South Tryon Street DEC20A, Charlotte, North Carolina 28202;

WITNESSETH:

That Grantor, in consideration of Ten Dollars (\$10.00) and other valuable considerations paid by Grantee, the receipt of which is hereby acknowledged, does grant and convey unto Grantee, its successors and assigns, a perpetual easement and right of way, for the purposes and subject to the terms and conditions herein below set out, over and across the land of Grantor (hereinafter “Premises”) lying in the State and County aforesaid, acquired by Grantor by the following:

Deed recorded in Book 4849 at Page 1167 in the Office of the Register of Deeds of Gaston County (the “Registry”).

Upon relocation of the existing electric power line, this Agreement shall supersede and replace the right of way/easement document recorded in Deed Book 948 at Page 160 in the Registry (the “Prior Right of Way Agreement”) but only to the extent that the Prior Right of Way Agreement affects the Premises. Grantee shall retain all right, title and interest it may have or be entitled to assert under the Prior Right of Way Agreement as to any other land(s) so encumbered.

Upon relocation of the power line, this Agreement shall serve as a release by Grantee of the existing right of way, indicated on the below referenced plat of survey as 2.030 ± acres, and Grantee legally abandons that right of way.

The easement and right of way herein granted by Grantor to Grantee, its successors and assigns, over the Premises above described consist of the following:

- (a) Grantee’s Use of Right of Way Strip. Grantor grants to Grantee, for itself and its successors and assigns, a perpetual easement within the Right of Way Strip (as defined herein) to enter and construct, reconstruct, replace, rebuild, enlarge, modify, remove, inspect, repair, maintain, operate and use multiple lines (either overhead or underground, or both) for the purpose of transporting electricity and for communications use. As used herein, the “Right of Way Strip” shall refer to those areas or parcels of land containing 3.391 ± acres, all as shown on a plat of survey entitled

“Right of Way Acquired and Right of Way Released from The County of Gaston,” dated April 13, 2016, marked Map: 000579-453178, Sheets 1 thru 3, said Plat attached hereto as **Exhibit A** and incorporated herein by reference. A “line” may consist of overhead and/or underground wires, conductors, cables, conduits and other necessary apparatus, fixtures, hardware and appliances deemed necessary by Grantee for the transportation of electrical energy and/or for the communications purposes of Grantee or its successors or assigns, including, without limitation, conduits, static wires, guy wires, anchors, grounds, footings, foundations, crossarms, insulators, electronic equipment and other associated equipment. Overhead lines or cables may be supported by single or multiple rows of towers, poles or other structures (without limitation as to number) placed at necessary and proper intervals upon the Right of Way Strip. In connection with Grantee’s rights within the Right of Way Strip, Grantee shall have the right (i) to clear and keep the Right of Way Strip free of trees and other vegetation (except as provided in (b) hereinbelow), structures, and other objects of any nature including, without limitation, satellite signal receiver systems, billboards, signs, buildings, manufactured homes, mobile homes and trailers, graves, wells, swimming pools and any associated decking, septic systems or storage tanks and systems (whether above ground or below ground), flammable materials, building materials, wrecked or disabled vehicles or equipment, refuse of any type and all other objects (whether above ground or below ground) which may, in Grantee’s reasonable opinion, interfere in any way with or endanger Grantee’s lines or the maintenance and operation of Grantee’s lines, (ii) to install and maintain fences, gates and roads within the Right of Way Strip to afford Grantee access to the Right of Way Strip and (iii) to plant and maintain shrubs and ornamental trees within the Right of Way Strip at locations selected by Grantee and remove the same.

- (b) Grantor’s Reserved Use. Grantor shall be entitled to use the Right of Way Strip for all purposes not inconsistent with the rights and easements herein granted to Grantee, including (i) the right to cultivate crops, plants, shrubs and trees of a species that will not exceed fifteen (15) feet in height at maturity, provided that any such vegetation does not impede Grantee’s use of and access to the Right of Way Strip, (ii) the right to pave, improve and use the Right of Way Strip for temporary vehicular parking, provided Grantor installs protective barriers satisfactory to Grantee for Grantee’s structures, (iii) the right to use the Right of Way Strip for recreation, provided no structures or objects (above or below ground) are erected or placed without the prior written approval of Grantee, (iv) the right to retain existing roads and drives and sewer, water and other utility lines within the Right of Way Strip at their existing locations as of the date of this instrument, (v) the right to use, construct and maintain new paved or unpaved roads, streets and driveways and new water, sewer, drainage and other utility lines or pipes crossing the Right of Way Strip, provided such facilities conform to the following requirements: (A) such facilities cross the Right of Way Strip from one side of the Right of Way Strip to the other side at an angle of not less than thirty (30) degrees between the center line of said facilities and the center line of the Right of Way Strip, provided that no road, street or driveway intersects entirely or partially within the Right of Way Strip with any other road, street or driveway, (B) no portion of such facilities is located within twenty-five (25) feet of any of Grantee’s supporting poles, towers, or structures, and (C) such facilities are constructed in strict compliance with all clearance requirements of Grantee and all other regulations and ordinances then applicable to electrical conductors, (vi) the right to maintain existing fences and the right to build new fences on the Right of Way Strip with the prior written approval of Grantee, provided any such new fences conform to the following requirements: (A) such fences shall not be attached to poles, towers or structures, (B) such fences shall be installed at least twenty-five (25) feet from poles, towers or structures, (C) such fences shall not exceed 10 feet in height, (D) such fences shall cross the Right of Way Strip from one side of the Right of Way Strip to the other side at an angle of not less than 30 degrees between the centerline of said facilities and the center line of the Right of Way Strip, and (E) if a fence crosses the Right of Way Strip, a gate shall be installed by Grantor per Grantee’s specifications to allow free access required by Grantee’s vehicles and equipment and (vii) the right to excavate, grade and fill, provided Grantor receives Grantee’s prior written approval.
- (c) Grantee’s Use of Premises Outside of the Right of Way. Grantor further grants to Grantee, for itself, its successors and assigns, the right to enter upon the Premises for the following purposes and uses:
- (1) Grantee and Grantee’s successors and assigns relative to the Right of Way Strip may cut, fell and remove any and all trees on the Premises that are or may become tall enough, in Grantee’s opinion, to fall on a line or other facility or structure within the Right of Way Strip.
 - (2) Grantee and Grantee’s successors and assigns relative to the Right of Way Strip may enter upon the Premises at any time and from time to time to gain access (for vehicles, equipment and pedestrians) to the Right of Way Strip or to cut, fell and remove trees from the Premises (pursuant to Paragraph (c)(1) herein);

and an easement is hereby granted to Grantee for such purpose. Grantee's right to enter the Premises (for which an easement is hereby granted to Grantee) to access the Right of Way Strip or Premises shall be confined to streets, roads and driveways that exist when Grantee's entry is necessary, provided such existing streets, roads and driveways are adequate for Grantee's purposes and afford Grantee reasonably convenient and feasible access to the Right of Way Strip or the location on the Premises where trees are to be cut, fell or removed as provided for hereinabove. If streets, roads and driveways satisfying the requirements in the immediately preceding sentence do not exist at such time, Grantee shall be entitled to use (and an easement is hereby granted for such purpose) the most reasonably convenient and feasible access route or routes over the Premises to access the Right of Way Strip (and Grantee shall be entitled to construct and maintain a roadway or driveway for Grantee's purposes within such route or routes) or the location of the Premises where trees are to be cut, fell or removed as provided for hereinabove.

- (d) Grantee's Repair Obligation. Grantee shall repair damage to the Premises, including roads, driveways and fences, resulting directly from Grantee's exercise of its rights granted herein. Provided, however, for purposes of the initial clearing of all trees which Grantee is entitled to cut and remove from the Premises pursuant to Paragraphs (a) and (c) herein, said trees shall, upon such cutting, become the property of Grantee.

The failure of Grantee to exercise any of the rights herein granted shall not be construed as a waiver or abandonment of the right thereafter at any time or from time to time to exercise any and all of such rights.

TO HAVE AND TO HOLD the aforesaid rights, privileges and easements unto Grantee, its successors and assigns forever.

And Grantor, for the Grantor and for the Grantor's successors and assigns, covenants to and with Grantee, its successors and assigns, that Grantor is lawfully seized of the above described land in fee and has the right to convey the said rights and easements, that the same is free and clear from any and all encumbrances and will forever warrant and defend the title to the said rights and easements against the lawful claims of all persons whomsoever, subject to all matters of record and matters that would be revealed by a current and accurate survey of the Premises (inclusive of the Right of Way Strip).

IN WITNESS WHEREOF, this instrument is executed on the date first above written.

GRANTOR:
The County of Gaston
a Political Subdivision of the State of North Carolina

By: _____
Name: _____
Title: _____

STATE OF NORTH CAROLINA

COUNTY OF _____

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: _____

Date: _____
My Commission Expires: _____

Notary Public

[Signatures Continue on Following Page]

GRANTEE:
Duke Energy Carolinas, LLC
a North Carolina limited liability company

By: _____
Name: _____
Title: _____

STATE OF NORTH CAROLINA

COUNTY OF _____

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: _____

Date: _____
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Notary Public