

Filed in ROWAN County, NC  
on Jun 29 2009 at 09:50:54 AM  
by J. E. BRINDLE  
Register of Deeds

Book 1144 Page 957

✓ Prepared By: Karol P. Mack, Associate General Counsel, Duke Energy Corporation

Mail To: Duke Energy Carolinas, LLC  
Records Management ST30C  
P.O. Box 1007  
Charlotte, N.C. 28201

Site 001238  
Land Unit 1175833  
Project No 001238-375465

STATE OF NORTH CAROLINA )

7 32.00  
PSC  
COUNTY OF ROWAN )

**RIGHT OF WAY AGREEMENT  
AND RELEASE**

THIS INDENTURE, made and entered into this 24<sup>th</sup> day of June, 2009, by and between **HIGH ROCK PROPERTIES, LLC**, hereinafter called "Grantor" (whether one or more), having a mailing address of 8734 Brenfield Road, Huntersville, North Carolina 28078-5815, and **DUKE ENERGY CAROLINAS, LLC**, a NC limited liability company, hereinafter called "Grantee", having a mailing address of P.O. Box 1007, Charlotte, North Carolina 28201-1007;

**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:

Under deed from Malcolm B. Blankenship, Jr., Trustee to North Carolina Warehouses, LLC recorded on March 27, 1003 in Deed Book 969 at page 178 in the Office of the Register of Deeds of Rowan County, North Carolina.

Upon relocation of the existing electric power line, this Agreement shall supersede and replace the right of way/easement document recorded in Deed Book 555 at Page 384 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 0.41 Acres, and legally abandon 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, maintain 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 that area or parcel of land containing 2.88 acres, all as shown on a plat of survey entitled "**Rights of Way to be Acquired from: High Rock Properties, LLC,**" dated February 23, 2009, marked Map: 001238-375441, said Plat

being 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 (except fruit trees below fifteen (15) feet in height), structures, buildings, manufactured homes, mobile homes and trailers, human graves, wells, swimming pools, septic or storage tanks (whether above ground or below ground), flammable materials, building materials, wrecked or disabled vehicles, refuse of any type and all other objects (whether above ground or below ground) which may, in Grantee's 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 and gates in 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.

- (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 fruit trees that do not exceed fifteen (15) feet in height, (ii) the right to pave, improve and use the Right of Way Strip for temporary automobile parking, provided Grantor installs adequate protective barriers for Grantee's structures, (iii) the right to use the Right of Way Strip for recreation, provided no structures are erected, (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 construct and maintain new roads and drives and new water, sewer and other utility lines crossing the Right of Way Strip, provided such facilities conform to the following requirements: (A) such facilities cross the Right of Way Strip at an angle of not less than thirty (30) degrees, (B) no portion of such facilities is located within twenty (20) feet of any of Grantee's supporting structures, and (C) such facilities are constructed in strict compliance with all clearance requirements of the National Electrical Safety Code 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, provided any such new fences conform to the following requirements: (A) such fence shall not be attached to poles or towers, (B) such fence shall be installed at least 10 feet from poles or towers, (C) such fence shall not exceed 10 feet in height (D) such fence shall not parallel the centerline within the rights of way, but may cross at any angle not less than 30 degrees with centerline, and (E) if a fence crosses the right of way, a gate shall be installed by the property owner per Grantee's specifications to allow free access required by Grantee's equipment and (vii) the right to excavate, grade and fill, provided such activity is completed in accordance with good engineering practices, does not endanger Grantee's structures, including the foundations of such structures, and meets all clearance requirements of the National Electrical Safety Code and all other regulations and ordinances then applicable to electrical conductors.
- (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 now or in the future that are 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 danger 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 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. 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 such purpose within such route or routes).

(d) Antennas and Related Equipment. Grantor grants to Grantee, for itself and its successors and assigns, the following rights:

- (1) A perpetual easement (i) to modify, enlarge and/or extend any one or more towers, poles or other support structures now or hereafter installed within the Right of Way Strip by Grantee for its electric operations and to use same for the attachment and use of antenna or other equipment or devices for wireless or other communications, and (ii) to use one or more parcels of land, having dimensions not exceeding twenty-five (25) feet by twenty-five (25) feet and located adjacent to or at the base of each such tower, pole or other support structure which is referred to in the immediately preceding clause (i) and which is hereafter used by Grantee for the attachment and use of antenna or other equipment or devices for wireless or other communications, to construct, reconstruct, replace, rebuild, enlarge, modify, remove, inspect, maintain and use electronic equipment and other equipment necessary or desirable in connection with wireless or other communications from and to any antenna or other equipment or device installed upon such tower, pole or other support structure. If and to the extent such communications equipment areas referenced in clause (ii) in the immediately preceding sentence are hereafter required by Grantee, Grantee shall be entitled to designate the location of such areas, and such areas shall be located entirely within the Right of Way Strip. In the event Grantee shall relocate within the Right of Way Strip any tower, pole or other support structure used for communications purposes, then in such event Grantee may relocate its antenna and other communications equipment to the relocated site of such tower, pole or other support structure and may designate an appropriate twenty-five (25) foot by twenty-five (25) foot area (as contemplated above) at such new location.
- (2) A perpetual easement to enter upon the Premises at any time and from time to time to gain access (for vehicles, equipment and pedestrians) to the communications equipment areas referenced in Paragraph (d)(1) herein. Grantee's right to enter the Premises to access such communications equipment areas 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 such areas. 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 such communications equipment areas (and Grantee shall be entitled to construct and maintain a roadway or driveway for such purpose within such route or routes). With regard to any access route or routes that have been established over the Premises pursuant to this Paragraph (d)(2) at any given time and that are used for access to communications equipment areas, Grantor shall be entitled, at Grantor's sole cost and expense and after obtaining Grantee's prior written approval, to relocate said access route or routes (and Grantee's corresponding easement rights therein) elsewhere on the Premises to accommodate Grantor's reasonable needs for the development or use of the Premises, but in such case, Grantor also must construct and install, at Grantor's sole cost and expense and without interrupting access to the relevant communications equipment) a replacement roadway or driveway and the replacement roadway or driveway, in each instance, must be comparable to the roadway or driveway that is being replaced. Grantee's written approval of any proposal by Grantor to relocate the access route or routes pursuant to the immediately preceding sentence shall not be unreasonably withheld; provided, however, Grantee withholding or denial of such written consent shall be deemed reasonable if reasonably convenient and feasible access to and from the communications equipment areas is not afforded by the proposed replacement access route or routes.
- (3) A perpetual easement to construct, reconstruct, replace, rebuild, inspect, maintain and use underground telephone and electrical lines to serve communications equipment within the Right of Way Strip and such underground lines may be installed along and generally parallel to the access route or routes established pursuant to Paragraph (d)(2) herein. Provided, with respect to any such access route or routes that are hereafter relocated by Grantor (as permitted in Paragraph (d)(2) herein), Grantor also must relocate (at Grantor's sole cost and expense and without interrupting service to communications equipment within

the Right of Way Strip) all telephone and electrical lines previously installed (as contemplated above in this Paragraph (d)(3)) along or in the vicinity of the access route or routes that are being relocated by Grantor.

- (c) 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 hereunder. Provided, however, all trees which Grantee is entitled to cut and remove from the Premises pursuant to Paragraphs (a) and (c) herein shall, upon such cutting, become the property of Grantee.

Grantor acknowledges that the easement and right of way herein granted shall include the unconditional right of Grantee to assign all, or any portion, of its right, title and interest under the right of way to any entity which is an electrical utility.

**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 heirs, executors, administrators, 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.

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

**GRANTOR**

High Rock Properties, LLC

By:

Name:

Title:

High Rock Properties  
JAMES FRANK MCGUINE  
SE. Vice President

STATE OF NORTH CAROLINA

COUNTY OF Cabarrus

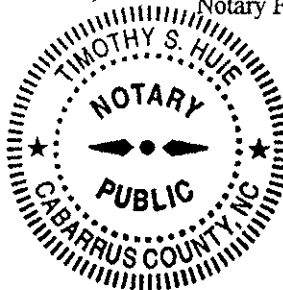
JAMES FRANK MCGUINE

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: JAMES FRANK MCGUINE

Date: 6/23/09

My Commission Expires: November 20, 2013

Timothy S. Hue  
Notary Public



[Signatures Continue on Following Page]

**GRANTEE**

Duke Energy Carolinas, LLC  
a North Carolina limited liability company

By: *George W. Christian, Jr.*  
Name: George W. Christian, Jr.  
Title: Manager, Right-of-Way

**STATE OF NORTH CAROLINA**

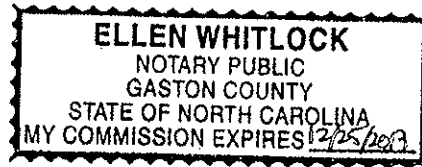
**COUNTY OF** Mecklenburg

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: **George W. Christian, Jr., Manager, Right-of-Way**

Date: 6/24/2009

My Commission Expires: 12/25/2013

*Ellen Whitlock*  
Notary Public



# DUKE ENERGY CORPORATION

## ASSISTANT CORPORATE SECRETARY CERTIFICATE

I, Sue C. Harrington, Assistant Corporate Secretary of Duke Energy Corporation, a Delaware corporation, do hereby certify that the Board of Directors of Duke Energy Corporation (the "Board of Directors") on February 26, 2008, approved an amended and restated Approval of Business Transactions Policy (the "ABT Policy") whereby the Board of Directors maintained the responsibility for approving the authority limits for the President and Chief Executive Officer and delegated to the President and Chief Executive Officer the responsibility for approving the ABT Policy and any updates thereto, which ABT Policy provides in relevant part that certain direct reports to the President and Chief Executive Officer of Duke Energy Corporation may approve, or delegate the authority to approve, routine business transactions involving amounts of \$25 million or less before considering any approved exceptions. I further certify that Marc E. Manly, Group Executive, Chief Legal Officer and Corporate Secretary, Duke Energy Corporation, is a direct report to the President and Chief Executive Officer of Duke Energy Corporation, is responsible for real estate transactions on behalf of Duke Energy Corporation and its affiliates, and, pursuant to the authority granted by the ABT Policy, has up to \$25 million in authority for routine business transactions.

I further certify that per the Delegation of Authority Policy (the "DOA Policy"), which is referenced in the ABT Policy, or per the approved exceptions to the DOA Policy, Angeline M. Clinton, Senior Vice President, Enterprise Operation Services, Duke Energy Business Services LLC, as the executive responsible for real estate transactions, has the authority to approve amounts up to \$10,000,000 for routine business transactions on behalf of Duke Energy Corporation and its affiliates (including but not limited to capital projects, commitments to buy products or services, real estate acquisitions and divestitures, and operating leases); that Dennis F. Wood, III, Vice President, Real Estate Services, Duke Energy Business Services LLC, has the authority to approve up to \$5,000,000 for routine business transactions on behalf of Duke Energy Corporation and its affiliates (including but not limited to land acquisitions and divestitures and building rent); that R. Steven Bodenheimer, Director of Transaction Management, and George E. Toft, Director of Land Services, have the authority to approve \$5,000,000 to execute deeds, leases and similar real estate documents on behalf of Duke Energy Corporation and its affiliates for land and facility acquisitions and divestitures, which authority includes the authorization to execute any contract, lease, deed, easements, rights of way or other instruments related to the authorized transaction; and that Kristina L. Breeding, Manager, Right-of-Way; George W. Christian, Jr., Manager, Right-of-Way; and Harold L. Glorius, Jr., Manager, Right-of-Way, have the authority to approve up to \$750,000 to execute deeds, leases and similar real estate documents on behalf of Duke Energy Corporation and its affiliates for land and facility acquisitions and divestitures, which authority includes the authorization to execute any contract, lease, deed, easements, rights of way or other instruments related to the authorized transaction.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said Duke Energy Corporation this 29th day of April, 2009.



#270215

*Sue C. Harrington*  
Assistant Corporate Secretary

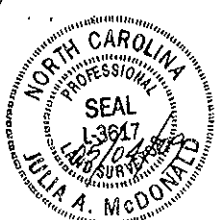
6



ENGINEERS, PLANNERS, SURVEYORS  
8020 TOWER POINT DRIVE  
CHARLOTTE, NORTH CAROLINA 28227  
PHONE (704) 841-2588  
FAX (704) 841-2587

I HEREBY CERTIFY THAT THIS MAP WAS PREPARED UNDER MY DIRECT SUPERVISION FOR THE PURPOSE OF RIGHT OF WAY OR EASEMENT ACQUISITION ONLY, AND IS NOT INTENDED TO BE A BOUNDARY SURVEY OF THE PROPERTY SHOWN. THIS SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET. THIS MAP IS EXEMPT FROM REVIEW BY A REVIEW OFFICER.

*Julia A. McDonald* L-3617  
JULIA A. McDONALD, PLS L-3617



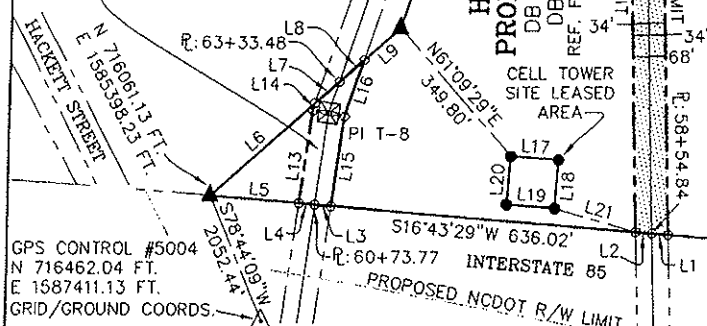
NC GRID  
NAD 83 (NSRS 2007)

#### OWNERSHIP INFORMATION

(A) JAMES E. SMITH AND  
WIFE, JEANNETTE F. SMITH  
DB 1048 PG 565  
REF. FILE NO. 3-739

RUTH FISHER ET AL  
DC #83 PG 1075 (WILL)  
DB 128 PG 203, DB 121 PG 123  
REF. MAP: 001238-375440  
LU: 1175834

AREA TO BE  
RELEASED = 0.41 ACRE



GPS CONTROL #5004  
N 716462.04 FT.  
E 1587411.13 FT.  
GRID/GROUND COORDS.

- SURVEYED & MAPPED FOR: DUKE ENERGY CAROLINAS, LLC
- ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES UNLESS OTHERWISE NOTED.
- AREA BY COORDINATE COMPUTATION.
- PROPERTY SUBJECT TO ANY VALID & ENFORCEABLE EASEMENTS, RESTRICTIONS & RIGHTS OF WAY OF RECORD.
- SURVEY IS BASED ON PHYSICAL EVIDENCE AND EXISTING MONUMENTATION FOUND DURING THE SURVEY.
- PROPERTY CORNER PIPE SIZES AS SHOWN ARE NOMINAL INSIDE DIAMETER.
- GRID COORDINATES WERE ESTABLISHED USING VRS SOFTWARE. COORDINATE SYSTEM: US STATE PLANE 1983 (NSRS2007) COMBINED GRID FACTOR: 0.999877896, LOCALIZED ON POINT #5004. VERTICAL DATUM NAVD88

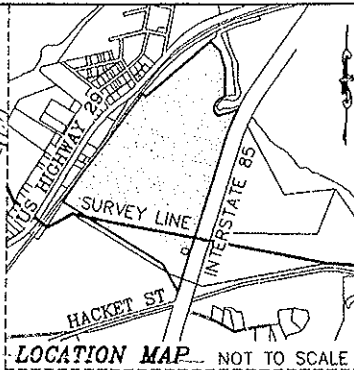
SITE: 001238

FOR SOURCE OF TITLE REFER TO D.BK. 1049, PG. 854; D.BK. 969, PG. 178

DUKE ENERGY CAROLINAS, LLC  
N. SALISBURY 100 KV LOOP

RIGHTS OF WAY TO BE ACQUIRED FROM:  
**HIGH ROCK PROPERTIES, LLC**  
SALISBURY TOWNSHIP  
ROWAN COUNTY, N.C.

BOOK: C688 150 0 150 300 450 CREW: CM  
DATE: 02/23/09 DRAWN BY: AHJ  
SCALE: 1" = 300' SCALE IN FEET R.O.P. = 1:10,000+  
LAND UNIT: 1175833 MAP: 001238-375441



LINE TABLE		
LINE	LENGTH	BEARING
L1	34.19'	S 16°43'29" W
L2	34.19'	S 16°43'29" W
L3	34.06'	S 16°43'29" W
L4	34.06'	S 16°43'29" W
L5	186.48'	N 16°43'29" E
L6	289.87'	N 29°14'12" W
L7	68.06'	N 29°14'12" W
L8	68.06'	N 29°14'12" W
L9	100.84'	N 29°14'12" W
L10	99.00'	N 59°12'14" W
L11	99.00'	N 59°12'14" W
L12	57.08'	S 59°12'14" E
L13	196.79'	N 69°46'18" W
L14	12.33'	N 59°12'24" W
L15	186.34'	S 69°46'18" E
L16	123.96'	S 59°12'24" E
L17	100.03'	N 16°38'08" E
L18	99.90'	S 73°23'55" E
L19	100.17'	S 16°33'01" W
L20	100.05'	N 73°19'05" W
L21	177.68'	N 27°47'03" E

AREA IN RIGHT  
OF WAY TO BE  
ACQUIRED = 2.88 ACRES  
(125,511 SQ. FT.)

AREA IN RIGHT  
OF WAY TO BE  
RELEASED = 0.41 ACRE  
(17,660 SQ. FT.)

NET AREA  
INCREASE = 2.47 ACRES  
(107,851 SQ. FT.)

#### LEGEND

- LINES SURVEYED
- - - LINES NOT SURVEYED
- - - R/W LIMIT
- - - TIE LINE
- PK NAIL (F)
- ▲ #5 REBAR (F)
- △ NAIL (S)
- CON. MON. (F)
- POINT NOT SET
- 1" IRON PIPE (F)
- R PROPERTY LINE (NTS) NOT TO SCALE
- (F) DENOTES "FOUND" (S) DENOTES "SET"



400 S. TRYON STREET  
PO BOX 1007  
CHARLOTTE N.C. 28201-1007  
TELEPHONE NO. (704)382-6656