

FORSYTH COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: OCTOBER 10, 2019 AGENDA ITEM NUMBER: 15

SUBJECT: RESOLUTION AUTHORIZING THE GRANT AND EXECUTION OF AN EASEMENT TO DUKE ENERGY CAROLINAS, LLC, TO ACCESS ELECTRIC AND COMMUNICATION FACILITIES ON 559.8 ACRES OF FORSYTH COUNTY OWNED REAL PROPERTY

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS: Recommend Approval

SUMMARY OF INFORMATION: See Attached

ATTACHMENTS: YES NO

SIGNATURE: *J. Dudley Watts, Jr. /AMS* DATE: October 3, 2019
COUNTY MANAGER

**RESOLUTION AUTHORIZING THE GRANT AND EXECUTION OF AN
EASEMENT TO DUKE ENERGY CAROLINAS, LLC, TO ACCESS ELECTRIC
AND COMMUNICATION FACILITIES ON 559.8 ACRES
OF FORSYTH COUNTY OWNED REAL PROPERTY**

WHEREAS Duke Energy Carolinas, LLC, requests an easement to access 559.8 acres of Forsyth County owned real property bounded by Lansing Drive on the North, Castle Heights and Northwood Estates subdivisions on the East, Bowen Boulevard on the South, and North Liberty Street on the West in Winston-Salem, N.C., known as Smith Reynolds Airport to construct, operate, and maintain electric and communication facilities within a portion of the designated easement area for consideration of \$1.00; and

WHEREAS Forsyth County is authorized pursuant to the provisions of N.C.G.S. 153A-176 and 160A-273 to grant easements under these circumstances, and County staff has determined that the proposed consideration and other terms negotiated between the parties are reasonable;

NOW, THEREFORE, BE IT RESOLVED, that the Forsyth County Board of Commissioners hereby authorizes the grant of an easement to access 559.8 acres of Forsyth County property bounded by Lansing Drive on the North, Castle Heights and Northwood Estates subdivisions on the East, Bowen Boulevard on the South, and North Liberty Street on the West in Winston-Salem, N.C., to construct, operate and maintain electric and communication facilities within a portion of the designated easement area for consideration of \$1.00; and

BE IT FURTHER RESOLVED, by the Forsyth County Board of Commissioners that the Chairman or County Manager and Clerk to the Board are hereby authorized to execute, on behalf of Forsyth County, the attached Easement document and any other necessary documents to grant the above-described access easement to Duke Energy Carolinas, LLC, subject to a pre-audit certificate thereon by the County Chief Financial Officer, if applicable, and approval as to form and legality by the County Attorney.

Adopted this the 10th day of October 2019.

EASEMENT

NORTH CAROLINA
FORSYTH COUNTY

Prepared By: Duke Energy
Return to: Duke Energy Carolinas
Attn: Lee Barber
500 Utility Drive
Clemmons, NC 27012

THIS EASEMENT ("Easement") is made this _____ day of _____, 20_____
("Effective Date"), from THE COUNTY OF FORSYTH, a political subdivision of the State of North Carolina ("GRANTOR,"
whether one or more), to Duke Energy Carolinas, LLC, a North Carolina limited liability company ("DEC"); its successors,
licensees, and assigns.

WITNESSETH:

THAT GRANTOR, for and in consideration of the sum of ONE DOLLAR (\$1.00), the receipt and sufficiency of which are hereby acknowledged, does hereby grant unto DEC, its successors, licensees, and assigns, the perpetual right, privilege, and easement to go in and upon the land of GRANTOR situated in Forsyth County, described as follows: containing 559.85 acres, more or less, bounded by Lansing Drive on the North, Castle Heights and Northwood Estates subdivisions on the East, Bowen Boulevard on the South, and North Liberty Street on the West (the "Property"), LESS AND EXCEPT any prior out-conveyances, and to construct, reconstruct, operate, patrol, maintain, inspect, repair, replace, relocate, add to, modify and remove electric and/or communication facilities thereon including but not limited to, supporting structures such as poles, cables, wires, guy wires, anchors, underground conduits, enclosures/transformers, vaults and manholes, and other appurtenant apparatus and equipment (the "Facilities") within an easement area being thirty (30) feet wide for the overhead portion of said facilities and twenty (20) feet wide for the underground portion of said facilities together with an area ten (10) feet wide on all sides of the foundation of any DEC enclosure/transformer, vault or manhole (the "Easement Area"), for the purpose of transmitting and distributing electrical energy and for communication purposes of DEC and Incumbent Local Exchange Carriers. The centerline of the Facilities shall be the center line of the Easement Area.

DEC, furthermore, agrees that it shall not construct, nor permit to stand, above ground-level, on said easements, any building, structure, pole, or other object, manmade or natural, to a height in excess of Federal Aviation Regulation ("FAR") Part 77 surfaces, based upon the location of current or future runways, and, if applicable, shall file a notice consistent with the requirements of FAR Part 77 (FAA Form No. 7460-1), prior to performing any maintenance or constructing any improvement within the easement.

The right, privilege and easement shall include the following rights granted to DEC: (a) ingress and egress over the Easement Area and over adjoining portions of the Property (using lanes, driveways and paved areas where practical as determined by DEC); (b) to relocate the Facilities and Easement Area on the Property to conform to any future highway or street relocation, widening or improvement; (c) to trim and keep clear from the Easement Area, now or at any time in the future, trees, limbs, undergrowth, structures or other obstructions, and to trim or clear dead, diseased, weak or leaning trees or limbs outside of the Easement Area which, in the opinion of DEC, might interfere with or fall upon the Facilities; (d) to install guy wires and anchors extending beyond the limits of the Easement Area; and (e) all other rights and privileges reasonably necessary or convenient for DEC's safe, reliable and efficient installation, operation, and maintenance of the Facilities and for the enjoyment and use of the Easement Area for the purposes described herein.

The parties agree that should the Grantor, at any time in the future, decide to construct airport improvements, such as runways, taxiways, extensions, associated lighting, etc. (the "Airport Improvements"), upon the easement, the Grantor shall implement, at its sole cost and expense, such measures as are necessary to protect the DEC's infrastructure within the easement. The parties agree, moreover, that should any of the Airport Improvements conflict with the DEC's use of the easement herein granted, or the DEC's access to its infrastructure, the Grantor shall relocate the DEC's infrastructure to eliminate the conflict, at the Grantor's sole cost and expense, and in accordance with plans approved by the DEC and stamped by a North Carolina professional engineer, and in accordance, furthermore, with the DEC's policies relating to the construction of power lines."

DEC will obtain prior written permission in regards to location and timing of any future new additions or relocation related to Duke Energy Facilities, not to include routine or storm maintenance and repair.

TO HAVE AND TO HOLD said rights, privilege, and easement unto DEC, its successors, licensees, and assigns, forever, and GRANTOR, for itself, its heirs, executors, administrators, successors, and assigns, covenants to and with DEC that GRANTOR is the lawful owner of the Property and the Easement Area in fee and has the right to convey said rights and Easement.

IN WITNESS WHEREOF, this EASEMENT has been executed by GRANTOR and is effective as of the Effective Date herein.

FORSYTH COUNTY
a political subdivision of the State of North Carolina

By: _____

Name: _____

Title: _____

ATTEST:

By: _____

Printed Name of Clerk: _____

County Clerk to the Board

NORTH CAROLINA, _____ COUNTY

I, _____, a Notary Public of _____ County, North Carolina, certify that _____ personally appeared before me this day and acknowledged that he/she is County Clerk to the Board for FORSTYH COUNTY, a political subdivision of the State of North Carolina, and that by authority duly given and as the act of said COUNTY, the foregoing EASEMENT was signed in its name by its _____ (title), sealed with its official seal, and attested by _____ self as its County Clerk to the Board.

Witness my hand and notarial seal, this _____ day of _____, 20____.

Notary Public

My commission expires: _____