

SETTLEMENT AGREEMENT

This agreement to settle ("Agreement") is made and entered into this December 8, 2011 [date] by and among Environmental Defense Fund, the South Carolina Coastal Conservation League and Southern Alliance for Clean Energy (collectively, the "Environmental Intervenors") and Duke Energy Corporation ("Duke Energy"), Progress Energy, Inc. ("Progress Energy"), their public utility subsidiaries Duke Energy Carolinas, LLC ("DEC"), and Carolina Power & Light Company, d/b/a Progress Energy Carolinas, Inc. ("PEC") (collectively, the "Applicants"). The Environmental Intervenors and the Applicants (collectively, the "Parties") agree to the following terms as a basis for resolving the issues between them in South Carolina Public Service Commission Dockets 2011-158-E and 2011-68-E:

1. **Energy Efficiency Performance Targets.** DEC and PEC will adopt the following energy efficiency ("EE") savings performance targets for five (5) years:
 - a. An annual savings target of one percent (1%) of the previous year's retail electricity sales beginning in 2015; and
 - b. A cumulative savings target of seven percent (7%) of retail electricity sales over the five-year time period of 2014-2018.
 - i) Compliance with the above targets is subject to existing North Carolina Utilities Commission ("NCUC") and South Carolina Public Service Commission ("SCPSC") EE program approval processes using standard cost-effectiveness tests or other methods accepted by the commissions, and will be met if each company shows it made a good-faith effort to develop and file for approval and, if approved, to implement programs sufficient to achieve the above targets. Good-faith efforts shall include timely consultation with the Environmental Intervenors regarding the EE program development process, so that the Environmental Intervenors may have a full understanding of the practices used to select EE programs and the opportunity to provide recommendations regarding program selection and design. There will be no penalties for failure to achieve the annual or cumulative targets.
 - ii) The Parties agree that no party to this Agreement will initiate a proceeding to alter the existing DEC and/or PEC EE compensation mechanism(s) during the five (5) year period January 1, 2012 to December 31, 2016 without the consent of the Parties. In the event that a non-party initiates such a proceeding, the Environmental Intervenors reserve their rights to participate fully in that proceeding without limitation as to views that may be expressed. The Parties recognize that upon expiration of existing NCUC and SCPSC orders, new or renewed EE compensation mechanisms for DEC and PEC may be necessary to ensure achievement of the above targets. The Parties agree to negotiate in good faith to develop and propose for commission approval mutually agreeable EE compensation and

incentive mechanisms. Because the SCPSC order for PEC does not expire, upon agreement of the Parties, any mutually agreeable recommendations made to the NCUC or any outcome from a NCUC proceeding may provide a basis for initiating a proceeding to revise the existing SCPSC order for PEC. Nothing in this agreement shall prohibit the Environmental Intervenors from intervening and participating in the companies' annual cost recovery proceedings in the NCUC and/or SCPSC.


2. **Renewable Energy Funding.** DEC and PEC will contribute a total of \$1 million per year for 2 years following the close of the merger to Palmetto Clean Energy, Inc., a South Carolina non-profit corporation.
3. **Retirement of Certain Coal-Fired Generating Units.** DEC and PEC will retire coal-fired electrical generating units ("EGUs"), as follows:
 - a. DEC will retire coal-fired EGUs as provided by the terms and conditions of a separate settlement agreement between DEC and Environmental Defense Fund, National Parks Conservation Association, the Sierra Club, Southern Alliance for Clean Energy and the North Carolina Waste Awareness and Reduction Network, Inc. resolving the contested cases challenging the construction and operation permits for DEC Cliffside Unit 6. The terms and conditions of Part I of that agreement are incorporated herein by reference.
 - b. PEC will retire coal-fired EGUs representing a total 1,533 MW (winter)/1,467 MW (summer) of capacity by December 31, 2015. Provided, however, upon the agreement of the Environmental Intervenors and PEC, the retirement of a specific unit or units may be extended. In the event PEC believes the retirement of a specific unit or units must be extended in order to avoid a material adverse impact on the reliability of its electric generating system, PEC may petition the NCUC or the SCPSC, in a formal proceeding, for authority to extend such retirement date. In such event, the retirement of the unit or units may be delayed as permitted by the NCUC or the SCPSC.
 - c. For the next five (5) years, the Applicants agree to provide to the Environmental Intervenors timely notice of the retirement of any EGU under this Agreement, and, upon request, to share with the Environmental Intervenors, under appropriate confidentiality agreements, the results of analyses regarding accelerated and/or additional EGU retirements in the Carolinas.

4. **Withdrawal of Testimony and Waiver of Right to Cross-Examine.** The Environmental Intervenors will withdraw the prefiled testimony of Richard S. Hahn, and the Applicants will withdraw any testimony that rebuts Mr. Hahn's testimony. The parties will waive their respective rights to cross-examine each other's witnesses with respect to their prefiled testimony and exhibits. If, however, questions are asked at the evidentiary hearing in the above-referenced dockets by any person who is not a party to this agreement, the parties reserve the right to present testimony and exhibits to respond to such questions, and to cross-examine any witnesses with respect to such testimony and exhibits, provided that such testimony, exhibits, and cross-examination are not inconsistent with this agreement.
5. **Binding Nature of Agreement.** The Parties represent and agree that the persons executing this Agreement have full and sufficient authority to sign and agree to be bound by the Agreement, and that this Agreement shall be binding upon the Parties and their successors and assigns, upon its execution.
6. **Governing Law and Interpretation.** This Agreement shall be governed and conformed in accordance with the laws of the State of South Carolina without regard to the conflict of laws provisions of South Carolina or any other state, and any provision herein that violates a statute or rule shall be void and unenforceable.
7. **Enforceability and Remedies for Breach.** The Parties stipulate and agree that this Agreement may be enforced in any court of competent jurisdiction in South Carolina. The Parties' sole and exclusive remedy for breach of this Agreement shall be an action for specific performance or injunction. In no event shall any Party be entitled to monetary damages for breach of this Agreement. In addition, no legal action for specific performance or injunction shall be brought or maintained until: (a) the non-breaching Party provides written notice to the breaching Party which explains with particularity the nature of the claimed breach, and (b) within thirty (30) days after receipt of said notice, the breaching Party fails to cure the claimed breach, or in the case of a claimed breach which cannot be reasonably remedied within a thirty (30) day period, the breaching Party fails to commence to cure the claimed breach within such thirty (30) day period, and thereafter diligently complete the activities reasonably necessary to remedy the claimed breach.
8. **Severability.** The invalidity or unenforceability of any provision of this Agreement shall in no way affect the validity or enforceability of any other provision; the invalid or unenforceable provision shall be stricken, without assessing damages or imposing penalties to either Party arising out of said provisions by any court of competent jurisdiction.

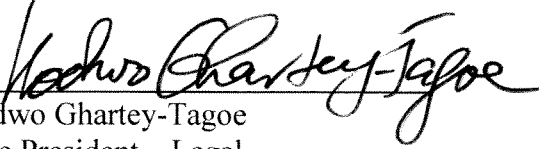
9. **Headings.** The headings used in this Agreement are for convenience of reference only and shall in no way define, limit, expand or otherwise affect the meaning of any provision of this Agreement.
10. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.
11. **Amendment.** This Agreement may not be modified, altered or changed except in a written document that is signed by all Parties and that makes specific reference to this Agreement.
12. **Review and Signing.** Each Party and counsel for each Party has reviewed this Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction requiring resolution of ambiguities against the drafting party.

[SIGNATURE PAGES TO FOLLOW; MAY BE EXECUTED IN COUNTERPARTS]

**Representing Environmental Defense Fund, the South Carolina Coastal
Conservation League, and Southern Alliance for Clean Energy**

By: 
Gudrun Thompson
Southern Environmental Law Center
601 W. Rosemary Street, Suite 220
Chapel Hill, NC 27516
Telephone: (919) 967-1450
Fax: (919) 929-9421
Email: gthompson@selcnc.org

Representing Duke Energy Corporation and Duke Energy Carolinas, LLC

By: 
Kodwo Ghartey-Tagoe
Vice President – Legal
Duke Energy Corporation
EC03T / Post Office Box 1006
Charlotte, NC 28201-1006
Telephone: (704) 382-4295
Fax: (704) 382-5690
Email: kodwo.ghartey-tagoe@duke-energy.com

**Representing Progress Energy, Inc. and Carolina Power & Light Company,
d/b/a Progress Energy Carolinas, Inc.**

By: 

Len S. Anthony
General Counsel
Progress Energy Carolinas, Inc.
Post Office Box 1551 / CPB 13A2
Raleigh, NC 27602-1551
Telephone: (919) 546-6367
Fax: (919) 546-2694
Email: len.s.anthony@pgnmail.com