SETTLEMENT AGREEMENT
DECEMBER 3, 2010

SOUTH CAROLINA V. NORTH CAROLINA, NO 138, ORIG.

This Settlement Agreement ("Agreement") is entered into between Plaintiff the State of South Carolina ("South Carolina"), Defendant the State of North Carolina ("North Carolina"), Intervenor Duke Energy Carolinas, LLC ("Duke Energy"), and Intervenor Catawba River Water Supply Project ("CRWSP") (hereinafter collectively the "Parties").

Preamble

Whereas, at the August 27, 2010 meeting of the Catawba-Wateree River Basin Advisory Commission ("Bi-State Commission") a motion was adopted stating that the parties in *South Carolina v. North Carolina*, Original No. 138 filed in the Supreme Court of the United States (the "Litigation") should use the Comprehensive Relicensing Agreement ("CRA") as a starting point for settlement negotiations and include the Bi-State Commission in the process.

Whereas, over the next few months, South Carolina and North Carolina (jointly referred to hereinafter as "the States"), along with Duke Energy and CRWSP met and negotiated a Joint Settlement Concept.

Whereas, during the Bi-State Commission meeting on November 12, 2010 (the "Meeting"), the States submitted their Joint Settlement Concept to the Bi-State Commission for public review and comment. During the Meeting, the States, Duke Energy and CRWSP spoke in support of the Joint Settlement Concept. At the same Meeting, the Bi-State Commission unanimously voted in favor of a motion approving of the Joint Settlement Concept.

Whereas, the Parties enter into this Agreement believing that it is fair and that by reaching this Agreement the Parties will achieve a better result than could be achieved through the Litigation with a substantial cost savings to the taxpayers and ratepayers in both States. The Parties also believe that it is important that the States regard each other as close neighbors, which share the Catawba-Wateree River ("River"), rather than as a plaintiff and a defendant in a lawsuit and that this Agreement will be a model for regional cooperation.

Comprehensive Relicensing Agreement

Whereas, the CRA is an agreement with 70 signatories who are stakeholders in the Catawba-Wateree River Basin (the "River Basin"), including representatives from both North Carolina and South Carolina. It is the result of a public, multi-stakeholder process that involved approximately 58,000 person-hours over a three-

year period and was initiated as part of Duke Energy's process for obtaining a new hydropower license ("New License") from the Federal Energy Regulatory Commission ("FERC") for its Catawba-Wateree Hydro Project, FERC Project No. 2232 (the "Project").

Whereas, South Carolina, North Carolina, Duke Energy and CRWSP all agree that the CRA is an appropriate foundation for resolution of this Litigation and that they should each commit to continue to work together to help the CRA achieve its intended purposes and deliver its agreed-upon provisions throughout its intended duration (i.e., through the term of the New License to be issued by FERC). The license articles proposed in the CRA would, if adopted by FERC, allow the New License for the Project to be "best adapted to a comprehensive plan for improving or developing the waterway" for beneficial public purposes as required by the Federal Power Act. The Parties support the CRA, which in combination with a New License consistent with the CRA will require Duke Energy to operate the Project to deliver the agreed upon provisions of the CRA throughout its intended duration (i.e., throughout the term of the New License to be issued by FERC).

Interbasin Transfers

Whereas, although they are only a small part of the total water use in the River Basin, interbasin transfers ("IBTs") have played a key role in the controversy between the two States. The Parties approve the CRA, including but not limited to the Proposed License Articles set forth in Appendix A and the Parties agree that the Current and Projected (Year 2058) Water Withdrawals and Returns set forth in Appendix H which are based on the 2006 Water Supply Study are reasonable. This agreement is reflected by the signed approval by the North Carolina Department of Environment and Natural Resources with its Divisions of Forest Resources, Parks and Recreation, Water Quality and Water Resources, the South Carolina Department of Archives and History, the South Carolina Department of Natural Resources, and the South Carolina Department of Parks, Recreation and Tourism.

Whereas, North Carolina acknowledges that the South Carolina Water Resources Commission issued a Class I Interbasin Transfer Permit to CRWSP authorizing the transfer of water from the Catawba River Basin not to exceed 20.0 million gallons per day ("mgd"). CRWSP acknowledges that its IBT of water in Union County, North Carolina is subject to regulation under North Carolina's IBT statute, and that, absent further approvals by North Carolina, CRWSP may not make IBTs of water in North Carolina in excess of the amount grandfathered under that statute.

Whereas, cumulatively IBTs out of the River Basin currently allowed or proposed in either South Carolina or North Carolina do not result in total actual annual average withdrawals that equal or even approach the projected IBTs used in

CRA modeling. In any case, the projected future IBT withdrawals that might be in use by 2058 were only a part of the whole study of water use. The CRA contemplated that changed circumstances might require adjustments to the Low Inflow Protocol ("LIP") in the future.

Agreement

The Parties hereto agree as follows:

First, South Carolina and North Carolina agree generally to regulate the use and withdrawal of water from the River Basin and to encourage or, as appropriate, require conservation especially during periods of drought. To the extent either State requests that the other State provide information or follow particular procedures, it should as a matter of comity and reciprocity impose the same demands on its own agencies and departments. The Parties agree that during periods of low inflow as set forth in the CRA, the LIP in the CRA contemplates water withdrawal reduction measures in both States.

Second, the States agree to update the Catawba-Wateree River Basin Water Supply Study ("Study") every 10 years, working cooperatively with the Catawba-Wateree Water Management Group ("CW-WMG"). The updated Study will use the CHEOPS® model, or another model mutually agreed upon by the North Carolina Department of Environment and Natural Resources ("NC DENR"), the South Carolina Department of Health and Environmental Control ("SC DHEC"), the North Carolina Wildlife Resources Commission ("NC WRC"), the South Carolina Department of Natural Resources ("SC DNR"), CW-WMG, Duke Energy and CRWSP, to assess and reassess consumptive water uses within the River Basin and for other planning purposes. The planning for the updated Study shall include NC DENR, SC DHEC, SC DNR, NC WRC, Duke Energy, CRWSP, and the CW-WMG. While the Study is being updated, opportunity will be provided for public comment.

Under this Agreement, the first update of the Study would be due no later than by the end of 2018. The cost of the Study will be borne by the CW-WMG, South Carolina and North Carolina in shares to be mutually agreed upon. The Attorneys General of the two States shall be kept apprised and receive a copy of the Study.

Third, the States agree to work together to coordinate with each other and implement the policies and procedures necessary for a consistent system of approving IBTs within the River Basin. The States should implement within their respective jurisdictions approval processes for future additional IBTs that contain the following elements.

a) Notice of applications shall be given to the other water users in the River Basin in both States, upstream and downstream, sufficient to inform them of

the details of the proposal. In addition, there shall be public meetings for interested parties and the public to provide information regarding the nature and extent of the proposed IBT.

b) An environmental impact statement shall be prepared for every proposed IBT of water from the River Basin to another major basin.

c) Written findings of fact must be made addressing the necessity for and reasonableness of the proposed IBT, the foreseeable future detrimental effects on the source river basin and benefits to the receiving river basin, reasonable alternatives to the proposed IBT, and any other facts and circumstances that are reasonably necessary for the appropriate regulatory body to assess the proposed IBT. Such findings shall include, but not be limited to, specifically assessing the effects of the IBT in times of drought on invocation of LIP Stages 0-4.

d) The applicant shall have the burden of proving the justification for the proposed IBT.

e) Each State shall prepare an annual report of the average daily transfer amounts for each entity holding an IBT certificate and provide it to the other State.

Fourth, the States agree that during periods of drought, both States should require all owners of water withdrawal intakes within their respective jurisdictions who depend on the water storage in one or more Project reservoirs to implement drought response plans which are no less stringent than the requirements of the LIP applicable to their water intakes.

Fifth, the States agree to develop a Memorandum of Agreement ("MOA"), as soon as reasonably practicable following dismissal of the Litigation, to coordinate their agency permitting/approval processes for bi-state water providers, such as CRWSP, to the extent feasible under the laws of each State, for the purpose of avoiding unnecessary duplication. Public participation in the development of the MOA would include the State agencies' soliciting suggestions from CRWSP and other, similarly situated entities before the States begin negotiating the MOA and then allowing for comment on the draft MOA once it is developed but before it is made final.

Sixth, the Parties agree to dismiss the dispute in the Supreme Court of the United States with each Party to bear its own attorneys' fees and costs. All Parties agree to cooperate fully and execute any and all supplementary documents and to take all additional actions which may be necessary or appropriate to dismiss the Litigation.

Seventh, the Parties agree that henceforth and during the term of the New License neither State will file an action in the Supreme Court of the United States against the other relating to or seeking an equitable apportionment of the River, whether in an action for injunction or otherwise, as long as each State abides by the CRA and this Agreement; provided, that in the event of material future changes in water use or water demand from those contemplated by the present CRA, either State may file such suit after first making a good faith effort to address its issues relating to equitable apportionment of the River with the other State. The States will agree in such event to seek during a period of no less than ninety days to negotiate a further agreement to avoid the need for such suit. The States' efforts may include seeking resolution of the dispute before the Bi-State Commission. Nothing herein shall prevent the Parties from raising other issues relating to the River before FERC or an appropriate state agency in accordance with the power and authority of such agencies.

Eighth, this Agreement shall become effective on the date it is signed by all parties.

Signed for and on behalf of the State of South Carolina, Plaintiff

By: _____ Dated: December 1, 2010

Henry Dargan McMaster
Attorney General of the State of South Carolina
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(803) 734-3970

Signed for and on behalf of the State of North Carolina, Defendant

By: _____ Dated: 12/10/2010

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For Duke Energy Carolinas, LLC, Intervenor

By: _____ Dated: 12/2/10

Steven D. Jester,
VP Hydro Strategy, Licensing & Lake Services, Duke Energy Carolinas, LLC

Approved as to form and content:

_____ Dated: 12-2-10

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Signed for and on behalf of Catawba River Water Supply Project, Intervenor

By: _____ Dated: 12/6/10

Michael E. Bailes
Chief Administrative Staff Person for Catawba River Water Supply Project

Approved as to form and content:

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