

# **EXHIBIT C**

**WAIVER AND RELEASE OF CLAIMS  
UNDER THE  
DUKE ENERGY 2010  
VOLUNTARY OPPORTUNITY PLAN**

This Waiver and Release of Claims pursuant to the terms of the Duke Energy 2010 Voluntary Opportunity Plan ("Agreement"), delivered on \_\_\_\_\_, is entered into by and between Duke Energy Corporation and its subsidiaries and affiliates (Duke and its subsidiaries and affiliates collectively referred to as the "Company"), and the undersigned employee insert employee name ("Employee") with the mutual exchange of promises as consideration.

WHEREAS, Employee is eligible to separate from employment under the terms of the Duke Energy 2010 Voluntary Opportunity Plan (the "Plan") and receive certain benefits described below; and

WHEREAS, the Company is willing to separate Employee under the terms and conditions set forth herein.

THEREFORE, the Company extends the following Agreement to Employee:

1. Voluntary Opportunity Benefits. In exchange for Employee voluntarily separating employment effective date (the "Separation Date") and entering into this Agreement, the Company agrees to furnish the following benefits, less applicable withholdings, to Employee:
  - a. Separation Pay. The Company agrees to pay Employee a lump sum amount equivalent to \$ \_\_\_\_\_ within 90 days following the Separation Date but in no event prior to the Effective Date of this Agreement.
  - b. Medical/Dental Coverage. The Company agrees to cover the cost of the premiums required to continue the medical and dental insurance coverage for the Employee and his or her eligible dependents for six months under the Consolidated Omnibus Reconciliation Act of 1985, as amended ("COBRA"), if the Employee elects such coverage; provided, however, that, in lieu of covering the cost of six months of COBRA continuation coverage, with respect to Employees who are eligible for and elect post-retirement medical and dental coverage under a Company-sponsored program, the Company agrees to cover the cost of the premiums attributable to six months of post-retirement medical and dental coverage for the Employee and his or her eligible dependents under the company-sponsored program.
  - c. Outplacement Services. The Company will make \$3,500 of outplacement services available to Employee through the Company's vendor in accordance with the terms of the Plan; provided, however, that any such services must be provided

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in accordance with the Duke Energy Corporation Section 409A Payment Policy (i.e., any reimbursement must be made by the last day of the calendar year following the calendar year in which the expense was incurred).

- d. Pension Enhancement. If the Employee is a participant in a final average pay feature of Cinergy Corp. Non-Union Employees' Pension Plan and has attained at least age 50 as of his or her Separation Date, the Company agrees to treat Employee as if he or she has voluntarily terminated employment under the Redeployment Status Opportunity provision of the severance plan referenced in the Cinergy Corp. Non-Union Employees' Pension Plan, such that he or she has the opportunity to "grow-into" the Rule of 85 benefit if he or she satisfies the requirements of the applicable pension plan.
2. Basis for Entitlement. Employee acknowledges that Employee would not be entitled to the benefits described in Paragraph 1 absent Employee's separation from employment under the Plan and execution of this Agreement.
3. Adequate Consideration. Employee agrees that this Agreement provides good, valuable and sufficient consideration for Employee's obligations under this Agreement.
4. Waiver by Employee. Employee waives and releases any and all rights or claims that he or she has, or may have, as of the date of the execution of this Agreement, based on or arising out of the employment relationship or the termination of the employment relationship, against the Company, its benefit, employee welfare, or other plans (including any and all fiduciaries thereof), or any of the Company's respective current or former officers, directors, agents, employees, attorneys, insurers, plan administrators, predecessors, successors or assigns, other than those set forth below in Paragraph 5. The rights and claims so waived and released shall include, but not be limited to:
- a. Those arising under any federal, state or local statute, ordinance, common law (including, but not limited to, claims of breach of promise, breach of contract, promissory estoppel, intentional or negligent infliction of emotional distress, defamation, tortious interference with a business relationship or contract and wrongful discharge), or claims in equity or public policy; and
  - b. Those arising under any law relating to sex, age, race, religion, handicap or disability, national origin, pregnancy, discrimination, retaliation, or whistleblower (including, but not limited to, any rights or claims arising under Title VII of the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1991, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act, the Rehabilitation Act, the Family and Medical Leave Act, the Worker Adjustment and Retraining Notification Act, the Indiana Discrimination on Account of Age Act, the Indiana Civil Rights Statute, the Kentucky Civil Rights Statute, the Ohio Civil Rights Statute, the North Carolina Human Relations law, the South Carolina Human Affairs Law, the Texas Labor Code Chapter 21, and

other similar state statutes as such statutes may be amended from time to time); and

- c. Those arising under the civil rights laws of any state or municipality; and
- d. Any claim for compensatory damages, punitive damages, attorneys' fees, expenses and litigation costs; and
- e. Those arising under the Employee Retirement Income Security Act of 1974 and the Age Discrimination in Employment Act of 1967, including, but not limited to, claims relating to the Duke Energy Retirement Cash Balance Plan, the Employee's election to convert or not convert to a cash balance feature under the Cinergy Corp. Non-Union Employees' Pension Plan and any resulting conversion and further including, but not limited to, claims relating to Case No. 8:06-cv-00373-RBH pending in the United States District Court for the District of South Carolina and any lawsuit alleging similar claims (the "Cash Balance Litigation"). The Cash Balance Litigation seeks additional benefits under the Duke Energy Retirement Cash Balance Plan and other relief. Please see the attached "**Important Notice**" for additional details, including the names and addresses of counsel for the plaintiffs. The Company and the Duke Energy Retirement Cash Balance Plan intend to defend themselves vigorously in the Cash Balance Litigation and take the position that no damages should result from the litigation. Employee recognizes and acknowledges that this Agreement completely releases Employee's rights in the Cash Balance Litigation. In the event that a court in the Cash Balance Litigation should rule that, despite this Agreement, Employee is entitled to some recovery of benefits under the terms of the Duke Energy Retirement Cash Balance Plan, Employee agrees that he or she will receive only the shortfall between the Plan benefit described above in Paragraph 1(a) and what he or she would get under that ruling, if any.
- f. Employee acknowledges that he or she has been paid for all hours worked during his or her employment with the Company and has received all other payments owed to him or her by the Company as of the Separation Date. In addition, Employee acknowledges that he or she has received all leave to which he or she may have been entitled to under the Family and Medical Leave Act during his or her employment with the Company.

5. Claims Not Waived. Notwithstanding the provisions of Paragraph 4 above, this Agreement does not waive and release workers' compensation claims filed prior to the date of execution of this Agreement, or claims against the Company arising out of possible exposure to asbestos during Employee's employment with the Company at a facility or facilities owned by the Company. Further notwithstanding the provisions of Paragraph 4 above, with the exception of claims related to the Cash Balance Litigation, this Agreement does not waive claims that may arise after the date of execution of this Agreement,

including, but not limited to, claims arising under an employee benefit plan or program maintained by the Company.

6. Future Employment. Employee waives any right to assert any claim or demand for re-employment with the Company. Any reemployment shall be in accordance with Company policies and procedures.
7. Acknowledgement of Reporting and Compliance. Employee acknowledges and agrees that it is the policy of the Company to comply with all applicable federal, state and local laws and regulations. Employee affirms that he or she has reported all compliance issues and violations of federal, state and local law or regulation or Company policy of which he or she had knowledge during the term of his or her employment, if any. Employee represents and acknowledges that he or she has no further or additional knowledge or information regarding compliance issues or possible violations of federal, state or local law or regulations or Company policy other than what Employee may have previously raised, if any, including, but not limited to, any and all outstanding nuclear safety concerns Employee has involving any nuclear power plant owned or operated by the Company. Nothing in this Agreement prohibits Employee from reporting any suspected instance of illegal activity of any nature, any nuclear safety concern, any workplace safety concern, or any public safety concern to the United States Nuclear Regulatory Commission, the United States Department of Labor, or any other federal or state governmental agency. This Agreement further does not prohibit Employee from participating in any way in any state or federal administrative, judicial, or legislative proceeding or investigation.
8. Promise not to Sue. Employee agrees not to institute a lawsuit against the Company asserting any of the claims that are released in Paragraph 4 of this Agreement. **Employee acknowledges that signing this Agreement means that Employee has waived not only his or her right to recover in a lawsuit, claim or other action brought by him or her as described herein, but also in any claim, lawsuit or other action brought on his or her behalf (including any claim of age discrimination) against the Company based on or arising out of the employment relationship or the termination of the employment relationship up to the date this Agreement is signed.**
9. Actions Injurious to the Company. Employee shall not make untrue, disparaging, defamatory or derogatory statements regarding (i) the Company, and to the extent that their relationship to the Company is known to Employee, its subsidiaries or affiliated companies or its current or former directors or employees or any successor of the Company, or any of its subsidiaries or affiliated companies, or (ii) the Company's initiatives, programs or policies relating to any matter whatsoever, and to the extent that their relationship to the Company is known to Employee, its subsidiaries or affiliated companies or its current or former directors or employees or any successor of the Company, or any of its subsidiaries or affiliated companies. Employee acknowledges that determination of a breach of this provision shall result in the termination of the Company's obligations under Paragraph 1. Further, any such breach of this Paragraph by Employee shall cause Employee to forfeit the right to keep any payment made or to be

made under this Agreement and to repay any amount already paid, but a breach shall not relieve Employee of the other conditions of this Agreement.

10. Return of Company Property. Employee agrees to return to the Company all keys, identification badges, electronic passes, credit cards, computers, computer programs, and any other Company property in a timely manner.
11. Confidential Information. Employee shall not, at any time, directly or indirectly, use any trade secrets or confidential information of the Company for Employee's benefit or the benefit of any other person or, directly or indirectly, disclose any such trade secrets or confidential information of the Company to any other person.
12. Cooperation with Litigation. Upon the Company's request, Employee agrees to render reasonable assistance to the Company in connection with any litigation or investigation relating to the Company's business. Such assistance shall include, but not be limited to, providing information, attending meetings, assisting with interrogatories, giving depositions and making court appearances. Employee agrees to promptly notify the Chief Legal Officer of the Company of any requests for information or testimony that Employee receives in connection with any litigation or investigation relating to the Company's business.
13. Governing Law. This Agreement shall be interpreted, enforced and governed under the laws of the State of North Carolina.
14. No Admission of Liability. This Agreement shall not in any way be construed as evidence or as an admission of any liability or wrongdoing by the Company.
15. Binding Effect of Agreement. This Agreement will be binding upon and shall operate for the benefit of the heirs, executors, administrators, assigns, and successors in interest of Employee and the Company.
16. Severability. If any portion of this Agreement should be unenforceable for any reason, the parties agree that the remaining portions will continue in effect.
17. Consultation with Attorney Advised. **Employee is advised to consult with an attorney prior to executing this Agreement.** Employee acknowledges being given that advice. Employee represents that Employee has read and fully understands all of the provisions of this Agreement. Employee represents that Employee is voluntarily signing this Agreement.
18. Receipt of Summary Plan Description. Employee acknowledges receipt and possession of a copy of the summary plan description of the Duke Energy 2010 Voluntary Window Opportunity Plan.
19. Receipt of Attachment and Notification Letter. To the extent applicable, the job classifications and the ages of all individuals in Employee's decisional unit who are

2010 Voluntary Opportunity Plan

eligible and ineligible to participate in the Plan are shown on the Attachment. Employee acknowledges receipt and possession of the Attachment. The eligibility factors for Employee's decisional unit are set forth in Employee's notification letter. Employee acknowledges receipt and possession of the notification letter.

20. Time Frame for Acceptance. Employee acknowledges that he or she has been given a period of forty-five (45) days from his or her Separation Date within which to consider and sign this Agreement.
- a. To enter into this Agreement, Employee must execute it by signing, dating and returning it to **Cathy Edwards, Mail Box Code ST05J, P.O. Box 1007, Charlotte, North Carolina 28201-1007.**
  - b. Employee acknowledges that if Employee has signed this Agreement it is because Employee freely chose to do so.
  - c. Employee may revoke this Agreement during the **seven (7) calendar days** after he or she signs it. To be effective, a revocation must be communicated in writing to Cathy Edwards, Mail Box Code ST05J, P.O. Box 1007, Charlotte, North Carolina 28201-1007, and delivered no later than 5:00 p.m. Eastern Time on the final day of the seven (7) day period.
21. Confidentiality. The Company and Employee agree to keep the terms and conditions of this Agreement confidential except to the extent the terms and conditions are required to be disclosed by any judicial or administrative federal, state or local agency. Employee may also disclose the terms and conditions of this Agreement to Employee's spouse, attorney and financial advisor, provided they first agree to be bound by this same pledge of confidentiality. This confidentiality provision is an essential part of the consideration to the Company for entering into this Agreement. Employee acknowledges that determination of a breach of this provision shall result in the termination of the Company's obligations under Paragraph 1. Further, any such breach of the provision of this Paragraph by Employee shall cause Employee to forfeit the right to keep any payment made or to be made under this Agreement and to repay any amount already paid, but a breach shall not relieve Employee of the other conditions of this Agreement.
22. Complete Agreement. The parties acknowledge and agree that this Agreement sets forth the complete understanding and agreement between them relating in any way to the termination of Employee's employment. No agreements or understandings between them shall be enforceable against the other unless written in this Agreement.
23. Effective Date. This Agreement shall become effective and enforceable upon the expiration of the revocation period discussed in Paragraph 20.

**AGREED TO BY:**

\_\_\_\_\_  
Employee

\_\_\_\_\_  
Date

THE COMPANY

By: \_\_\_\_\_

Deborah T. Patton  
Managing Director Employee Relations  
And Risk Analysis

\_\_\_\_\_  
Date

**SAMPLE**

**IMPORTANT NOTICE: READ BEFORE SIGNING WAIVER AND RELEASE**

Before signing the Waiver and Release in order to receive severance benefits, you should be aware that a class action is pending in federal district court in South Carolina. It alleges violations of the Age Discrimination in Employment Act and the Employee Retirement Income Security Act ("ERISA") arising out of the conversion of the Duke Power Company Employees' Retirement Plan into the Duke Power Company Retirement Cash Balance Plan and the administration of the Duke Energy Cash Balance Retirement Plan ("Plan") as well as violations of fiduciary duties owed to the Plan participants. In September 2009, the Court certified the following two (2) classes:

**Whipsaw Class** -- All former employees of Duke who were participants in the Plan, between January 1, 1997 and December 31, 2002, who retired and took lump sum benefits on or before August 17, 2006, prior to age 65, and whose lump sum benefits were calculated during a calendar quarter when the Plaintiffs claim that the applicable interest crediting rate under the relevant Plan documents exceeded the applicable interest rate for discounting to present value under the Plan documents.

**Interest Rate Class** -- All present and/or former vested employees of Duke Energy who were participants in the Plan at any time between January 1, 1997 and December 31, 1998, excluding participants who had retired on or before December 31, 1996.

The case is entitled *George et al. v. Duke Energy Cash Balance Retirement Plan and Duke Energy Corporation*, Case No. 806-cv-373-RBH ("George"). Please note that if you sign and do not revoke the Waiver and Release within the specified time, the Company will take the position as specified in paragraph 4 of the Waiver and Release that you have waived your potential claims and damages in that lawsuit. **THE COMPANY STRONGLY ADVISES YOU TO CONSULT LEGAL COUNSEL BEFORE SIGNING THE WAIVER AND RELEASE.** The lawyers who filed the class action are as follows:

James R. Gilreath William M. Hogan THE GILREATH LAW FIRM, P.A. 110 Lavinia Avenue P. O. Box 2147 Greenville, SC 29602 (864) 242-4727	Mona Lisa Wallace WALLACE & GRAHAM, P.A. 525 North Main Street Salisbury, North Carolina 28144 (704) 633-5244 (800) 849-5291
Charles W. Whetstone, Jr. Cheryl F. Perkins WHETSTONE MYERS PERKINS & YOUNG LLC 1303 Blanding Street (29201) P. O. Box 8086 Columbia, SC 20202 (893) 799-9400	Carl F. Muller Andrew B. Cogburn Wallace Lightsey WYCHE, BURGESS, FREEMAN & PARHAM, P.A. 44 East Camperdown Way Greenville, SC 29601 (864) 242-8200
A. Hoyt Rowell, III Daniel O. Myers T. Christopher Tuck Robert S. Wood RICHARDSON, PATRICK WESTBROOK & BRICKMAN, LLC P.O. Box 1007 Mt. Pleasant, SC 29465 (843) 727-6500	