

STATE OF ALABAMA)
COUNTY OF TUSCALOOSA)

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KNOW ALL MEN BY THESE PRESENTS, That the undersigned, Board of Trustees of the University of Alabama, a corporation, (hereinafter sometimes referred to as The University), for and in consideration of the sum of ~~four thousand four hundred forty five dollars~~ (\$4,545.00) to it in hand paid by the Alabama Power Company, a corporation, (hereinafter sometimes referred to as the Company), the receipt of which is acknowledged, and subject to certain rights of reverter and conditions imposed herein does hereby grant to the Alabama Power Company, its successors and assigns, the right to construct, operate and maintain electric transmission lines and communication lines, necessary and convenient in connection therewith from time to time, upon, over or under a strip of land 100 feet in width, as said strip is now located by the final location survey thereof heretofore made by said Company, over, under and across the lands of which it is hereinafter described as being a part, together with all the right and privileges necessary or convenient for the full enjoyment or use thereof for the purposes above described, including the right of ingress and egress to and from said strip and the right to cut and keep clear all trees and undergrowth and other obstructions on said strips and the right to cut such timber outside of said strip which in falling would come within five (5) feet of any conductor on said strip and the right to install grounding devices on Grantor's fences now or hereafter located on said strip and on fences or other structures of Grantors now or hereafter located adjacent to said strip; however, reserving, excepting, and imposing certain rights, limitations, conditions and restrictions as hereinafter set out. Said strip of land situated in Shelby County, Alabama, described as follows:

A strip of land 100 feet in width which lies within the Southwest Quarter of the Southwest Quarter (SW 1/4 of SW 1/4) of Section 18, Township 21 South, Range 4 West, Shelby County, Alabama; such strip being more particularly described as follows

To reach the point of beginning of the strip of right of way, commence at the Southwest corner of Section 18, Township 21 South, Range 4 West; thence run North along the West boundary line of said Section 18 a distance of 214.67 feet to a point, such point being the point of beginning of the right of way herein described; therefrom the strip lies 50 feet on each side of the center line and the continuations thereof, which begins at such point of beginning and turns a deflection angle to the right of 102 degrees 27 minutes and runs South 67 degrees 39 minutes 00 seconds East a distance of 562 feet, more or less, to a point, such point being the point of ending of the strip of right of way herein described.

Attached hereto and made a part hereto and made a part hereof is the Alabama Power Company's Drawing No. 381559, Sheet 2, with the final location survey shown thereon, involving approximately 1.13 acres.

The Alabama Power Company agrees to indemnify, protect and hold harmless The University against any and all claims (including claims filed with the State Board of Adjustment) for damages on account of or by reason of the Company's entry, construction, operation and maintenance of its facilities or for any other reasons resulting from this agreement; provided, however, nothing herein shall be construed as requiring Alabama Power Company to indemnify and save The University harmless against any damage to the extent the same may be caused by the sole or concurrent acts of negligence of The University of Alabama, its employees or agents. This grant of easement is made and accepted upon the following conditions subsequent which shall be binding upon and enforceable against said Company, its successors and assigns, and each of them as follows:

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SHELBY COUNTY JUDGE OF PROBATE
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The Company, its successors or assigns, shall utilize the easement herein granted only for the purposes stated herein and shall not make a different or varying use other than said purpose. Nothing contained herein shall be construed or interpreted so as to require the Company to utilize the easement granted or to continue the existence of such power lines. Misuse, non-use, or abandonment of said easement shall constitute a breach of this condition subsequent. In the event of such a breach, (whether caused by legal or other inability of the Company, its successors or assigns) in performing any of the obligations herein set forth, and should the Company fail to remedy such condition within 90 days after written notice of a breach having occurred, then all right, title and interest in and to the easement or grant herein made, shall, at the option of The University, revert to and become the property of The University, or its successors in title who have an immediate right of entry thereon, and the Company, its successors or assigns, shall forfeit all right, title, and interest in and to the above described property and any and all of the tenements, hereditaments, and appurtenances thereunto belonging. Should The University fail to insist in any one or more instances upon complete performance of any of the said conditions, such failure shall not be construed as a waiver or relinquishment of the future performance of any such conditions, but the obligations of the Company with respect to such future performance shall continue in full force and effect. Further, the remedy of reentry upon breach shall not serve to bar or prevent any other remedy provided by law to The University upon the breach of such conditions.

The Company, by its acceptance of this easement, covenants and agrees for itself, its successors and assigns, and every successor in interest to the easement herein granted or any part thereof, which covenant shall attach to and run with the easement and shall, in any event, and without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity, for the benefit and in favor of and enforceable by The University, its successors or assigns, against the Company, its successors or assigns and every successor in interest, or any part thereof, that

1. Upon abandonment or non-use of the easement, after initial construction, the Company will, at its own expense, and within a reasonable time after written request by The University to do so, remove all lines, towers, poles and appliances placed upon said property and restore same to a reasonable condition; and quitclaim deed all interests herein granted back to The Board of Trustees of The University of Alabama.

2. The consideration of \$ 4,545.00 does include the timber now on the herein described right of way; however, should the Company hereinafter desire to cut any danger trees along said easement under any authority granted in this instrument, said Company will, prior to cutting any danger tree(s), give notice to The University (P. O. Box 870176, Tuscaloosa, Alabama, 35487-0176, or at such other address as may from time to time be suggested) of its intention to cut the said danger tree(s) not less than 90 days prior to the time the cutting will take place. The University shall have 60 days after receipt of the notice of intention to cut, during which it may elect to harvest the danger tree(s) itself or may notify Alabama Power Company that it will not harvest said tree(s). In the event The University either elects not to harvest the danger trees or otherwise fails to communicate with Alabama Power Company prior to the expiration of 60 days after notification of Alabama Power Company's intention to cut, then Alabama Power Company shall be entitled to cut and remove the danger tree(s). In any circumstance under which Alabama Power Company cuts or removes a danger tree, it shall reimburse The University for the current market value of the tree(s) cut according to its highest and best use, disregarding difficulties associated with the removal of said tree(s) for commercial purposes. Payment to the University to be made not later than 45 days following the cutting of said trees.

3. Alabama Power Company agrees to protect and conserve The University's rights and interest in property involved in this easement and adjacent property through reasonable and judicious use and development of the rights granted herein and further agrees to indemnify and pay to The University for any damages to such retained rights and interest arising out of Alabama Power Company's use of the rights conveyed herein. The following examples of loss or damage are some of the losses that can reasonably be expected to occur. The examples are descriptive only and are not intended to limit in any way the occasions or losses for which Alabama Power Company may be liable under this or any other provision of this agreement: (a) overspray or drifting spray, which said spray was intended to keep easement clean of growth which damages growth on adjacent property; (b) leaving rubbish or other material on the easement or adjacent property that becomes infested with insects that move onto property of The University damaging standing timber or other vegetation.

4. Further, The University, its contractors or agents, are hereby authorized to surface mine near and under the transmission lines and across the right-of-way herein granted, subject to the following conditions:

a. All mining equipment shall maintain a clearance of a minimum of fifteen (15) feet from all conductors.

b. Spoils shall be placed and arranged so as to maintain a minimum clearance from conductors to ground of 35 feet on 500 Kv lines, 30 feet on 230 Kv lines and 25 feet on 115 Kv lines.

c. Ground shall not be disturbed closer than 50 feet of any pole or guy location. The banks from such undisturbed earth shall be sloped away from such undisturbed earth not greater than a one vertical foot to two horizontal feet of slope after mining operations have been completed.

d. Mining activities shall be carried out in such a way as to not prevent the Company in having physical access to all pole locations at all times.

e. The Company shall be relieved by The University of all liability in connection with mining operations, and the indemnity clause set out at the bottom of page one shall not apply in connection with such mining.

f. Following completion of mining operations, soil shall be smoothed and contoured so no ravines, pits, or pinnacles will remain on the right-of-way. A vegetation covering (grass or other low plants) shall be established to prevent soil erosion.

g. After the mining of coal from The University land adjacent to and on the strips of land hereinabove described, the Company shall pay The University for the non-recoverable coal under the pole and guy locations and for coal unrecoverable due to the restrictions and conditions specified in Sections 4 (a)-(d) above at the average royalty rate prevailing at the time of the active stripmining on adjacent University lands. In the event of the inability of the parties to reach an agreement as to the sum to be paid, such problem shall be subject to binding arbitration upon the demand in writing of either party hereto. Within ten (10) days of the written demand for arbitration, each party shall appoint a reputable mining engineer as arbitrator and shall notify the other, in writing, of the arbitrator selected. The two arbitrators shall forthwith select a competent disinterested mining engineer as umpire, and failing, for ten (10) days, to agree upon such umpire, said umpire shall be selected by the presiding Judge of the United States District Court for the Northern District of Alabama. The arbitrators shall then determine the dispute stating such determination in writing and rendering each party a written statement thereof, and, failing to agree, shall submit their difference only to the umpire. An award in writing of any two of the three selected persons shall determine finally the dispute. Each arbitrator shall be paid by the party selecting him and the expenses of arbitration and the umpire shall be paid by the parties equally.

TO HAVE AND TO HOLD the same to the said Company, its successors and assigns forever.

IN WITNESS WHEREOF, Alabama Power Company and the said Board of Trustees of The University of Alabama have caused this instrument to be executed, in duplicate, in their respective names by the appropriate officers and officials of each on this, the 14th day of October, 1996.

ATTEST:


Its

ATTEST:


Its Asst. Secretary

THE BOARD OF TRUSTEES OF THE
UNIVERSITY OF ALABAMA, a corporation


Its Vice President for Financial
Affairs and Treasurer

ALABAMA POWER COMPANY

By 
Vice President

STATE OF ALABAMA

TUSCALOOSA COUNTY

I, Betty J. Hanible, a Notary Public in and for said State and County, hereby certify that Robert A. Wright, whose name as U. P. Financial Affairs of The University of Alabama, Tuscaloosa, Alabama, a division of The Board of Trustees of The University of Alabama, a corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing instrument, he, as such official and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this, the 1st day of October, 1996.

Betty J. Hanible
Notary Public
My Commission Expires:
3/5/2000

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, Dan L. Hardwick, III, a Notary Public in and for said County in said State, hereby certify that Susan N. Story, whose name as Vice President of Alabama Power Company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that being informed of the contents of the instrument, he, in his capacity as such he executed the same voluntarily, on the day the same bears date.

Given under my hand and official seal this the 14th day of October, 1996.

Dan L. Hardwick, III
Notary Public
My Commission Expires:
1/27/98

