

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

In the matter of:

JAN 17 2017

Public Service
Commission

Glenn R. Spencer)
(Your Full Name))
COMPLAINANT)

VS.)

Clark Energy)
(Name of Utility))
DEFENDANT)

Case No. 2017-00050

COMPLAINT

The complaint of Glenn R. Spencer respectfully shows:
(Your Full Name)

(a) Glenn R. Spencer
(Your Full Name)

1705 Packed Oak Rd. Owingsville, Ky 40360
(Your Address)

(b) Clark Energy
(Name of Utility)

PO Box 748 Winchester, Ky
(Address of Utility)

(c) That: Clark Energy has been changing
(Describe here, attaching additional sheets if necessary,

Big Oak Nursery Farm as a commercial rate
the specific act, fully and clearly, or facts that are the reason

since 2010 - It is not a commercial
and basis for the complaint.)

establishment. I grow day pumpkins

Sweet corn

Continued on Next Page

Clack energy states since we have a sign so we are commercial, we sell to farmers market to other Retailers of farm products. According to state Ag. marketing laws AML 30(11) AML 30(2) section³⁰¹(2)(0) Nursery stock is considered Farm operation (Nursery closed in 2015)

Wherefore, complainant asks That Clack Energy
(Specifically state the relief desired.)

change Acc # 69110 to Agriculture on Res. ^c nitia and reimburse Acc # 69110 the difference in facility charges since June-2010

Dated at Owingsville, Ky, Kentucky, this _____ day
(Your City)

of _____, 2017.
(Month)

[Signature]
(Your Signature*)

(Name and address of attorney, if any)

Date

*Complaints by corporations or associations, or any other organization having the right to file a complaint, must be signed by its attorney and show his post office address. No oral or unsigned complaints will be entertained or acted upon by the commission.

Guidelines for Review of Local Laws Affecting Nursery Operations

The Agriculture and Markets Law (AML) definition of "farm operation" [AML §301(11)] includes "crops, livestock and livestock products" as defined in AML §301(2). Section 301(2)(d) defines "horticultural specialties" to include, but not be limited to, "...nursery stock, ornamental shrubs, ornamental trees and flowers." The Department considers the production, preparation and marketing of products grown on the farm, from bare rootstock, seeds, cuttings, plugs, or other immature plants, and transplanting such products into larger containers, to be a farm operation. The Department also considers the production, preparation and marketing of woody mature plants that have been planted or healed into the ground at the nursery, or that are balled/burlapped, and cared for and grown on the property for one year or longer, to be a farm operation. The production of sod is also part of a nursery operation. A farm operation may consist of one or more parcels of owned or rented land that is contiguous or noncontiguous to each other.

Many nursery operations contain accessory buildings, such as greenhouses, for the production and sale of their agricultural products. The Department guideline entitled *Local Laws Affecting Temporary Greenhouses* should be consulted concerning such structures. Many nursery operations also sell product directly to the public. The Department guideline entitled *Local Laws Affecting Direct Farm Marketing Activities* should be consulted concerning such sales.

Local governments and growers/plant dealers should also consult with the Division of Plant Industry, Department of Agriculture and Markets, to assure compliance with State Laws. The Division of Plant Industry (<http://www.agmkt.state.ny.us/PI/PIHome.html>) is responsible for maintaining plant health, promoting integrated pest management practices, preventing the introduction of and controlling invasive species, registering nurseries and plant dealers and detecting and preventing the spread of bee diseases.

The following are some of the specific matters that the Department considers when reviewing a local law that affects nursery operations:

A. Nursery Operations as a Permitted Use

Nursery operations should be a principal permitted use in all local zoning districts located in a county adopted, State certified agricultural district, since the purpose of such districts is to encourage the development and improvement of agricultural land. Agricultural uses and structures within an agricultural district should generally not be subject to special use permits, use variances or non-conforming use requirements. Nursery operations may sell their products either retail or wholesale.

B. Product Origin

Some farmers import crops from other farms to sell at their stands to increase the diversity of products offered or to bridge periods of low supply of commodities produced on-farm. Product diversity may attract potential customers to a roadside stand or farm market. The Department believes the sale of some agricultural products grown off the farm should be allowed, but has not established a percentage of on-farm versus off-farm products for that purpose. The Department considers the facts of a particular case in making a determination whether a local law is unreasonably restrictive, but generally would view as reasonable a requirement for predominance of on-farm products. The needs of "start-up" farm operations should also be

considered. These farms often start by selling a large percentage of agricultural products grown off the farm in order to develop a customer base and maintain income while their farms are growing. Therefore, if a percentage of on-farm products were required by a locality, these farms should be allowed a reasonable period of time to meet the percentage.

The Department considers agricultural commodities produced "on-farm" to include any products that may have been produced by a farmer in his or her "farm operation" from bare rootstock, seeds, cuttings, plugs, or other immature plants, and transplanting such products into larger containers, to be a farm operation. The Department also considers the production, preparation and marketing of woody mature plants that are balled/burlapped or have been planted or healed into the ground at the nursery, and cared for and grown on the property for one year or longer, to be a farm operation. A "farm operation" may consist of a number of parcels owned or leased by that farmer throughout a town, county, or the State. The Department considers all such land as part of the farm operation.

C. Equipment Storage, Use and Maintenance

Local governments should allow farm operations within a county adopted, State certified agricultural district to store, use and maintain farm equipment for agricultural purposes in an amount and type consistent with the needs and scope of the farm operation. An on-site review of such equipment and the farm operation may be necessary to determine if the equipment is utilized for agricultural purposes as part of the farm operation.

The on-farm equipment and vehicle storage, use and maintenance, and activities of employees (e.g., parking), and the dispatching of such equipment and vehicles, which are necessary for the installation of nursery stock and plant material at a client's site, is part of a "farm operation" under certain conditions. These include that the nursery stock and plant material be produced by the farmer in the farmer's "farm operation" from bare rootstock, seeds, cuttings, plugs, or other immature plants or mature plants that have been planted in the ground at the nursery, or transplanted into larger containers, and cared for and grown on the property for one year or longer; the nursery offers a survivability guarantee for a period of at least three years (for sod, a guarantee of approximately four weeks, until it takes root); and the nursery stock and plant material is planted and cared for by staff employed by the nursery.

D. Storage and Use of Non-Plant Material

The Department has concluded that stockpiled soil and mulch are often necessary for the on-farm production, preparation and marketing of nursery stock. Soil and mulch are used on the farm to plant and care for nursery stock which is grown in the ground on the farm and to prepare the stock for sale. Soil and mulch are also sold to retail and wholesale customers for use in replanting nursery stock. Potting soil used by the nursery operation is also considered necessary for the production of horticultural plant material. Therefore, the storage, use and sale of soil, mulch and potting soil, in an amount consistent with the size and scope of the nursery, is part of the farm operation. In the Department's view, however, the sale of hardscrabble, landscape timbers, masonry for the construction of retaining walls and firewood is not necessary for the production, preparation and marketing of nursery plants and, therefore, is not part of a "farm operation."

502
573
2543
Fax

GLENN R SPENCER
 BONNIE G SPENCER
 1705 PEELED OAK RD
 OWINGSVILLE KY 40360-8316

Average Cost
 Per Day
 0.62



*****PLEASE SEE ENCLOSED INSERT FOR IMPORTANT INFORMATION*****



ACCOUNT NUMBER		NAME		BILL DATE		TELEPHONE		PLEASE VERIFY TELEPHONE NUMBER AND MAKE ANY CHANGES ON BACK OF STUB			
[REDACTED]		GLENN R SPENCER		05/12/2010		[REDACTED]					
SERVICE DESCRIPTION			SERVICE LOCATION			MAP NUMBER		FUEL FACTOR	BILL TYPE		
BARN -NURSERY			PEELED OAK RD 1705			44-44-17		-0.0085590	REGULAR BILL		
SERVICE		NO. DAYS	METER NUMBER	READING		RATE	MULTIPLIER	KWH USAGE			
FROM	TO	31	[REDACTED]	PREVIOUS	PRESENT	A	1.0000	119			
04/07/2010	05/08/2010			681	800						
Activity Since Last Bill				\$ Amount		Current Bill Information				\$ Amount	
PREVIOUS BALANCE				14.16		CUSTOMER CHARGE				5.76	
PAYMENT				-14.16		ENERGY				13.51	
OTHER CHARGES/ADJUSTMENTS				0.00		FUEL ADJUSTMENT @ 0.0085590-				-1.02	
PRIOR BALANCE				0.00		KY STATE TAX				1.15	
						SCHOOL TAX				0.57	
						ENVIRONMENTAL SURCHARGE @ 4.85%				0.89	
						TOTAL CURRENT CHARGES				20.86	
<p>For billing inquiries please call: (859) 744-4251 or (800) 992-3269 8:00 A.M. - 4:30 P.M., M-F</p> <p>Failure to receive your bill does not exempt you from payment, late charges or disconnection.</p> <p>Five percent (5%) penalty will be added after due date.</p> <p>Night depositories are available at each Clark Energy office.</p>						Due Date	05/27/2010	Amt Due	\$20.86		
						Past Due After	05/27/2010	Gross Due	\$21.90		

4549

PLEASE DETACH AND RETURN BOTTOM PORTION WITH PAYMENT

Average Cost
Per Day
1.08



OUR RATE INCREASE, APPROVED BY THE KY PUBLIC SERVICE COMMISSION, IS EFFECTIVE WITH THIS BILLING.

GLENN R SPENCER
BONNIE G SPENCER
1705 PEELED OAK RD
OWINGSVILLE KY 40360-8316

Handwritten: Pd ch # 4336



ACCOUNT NUMBER		NAME		BILL DATE	TELEPHONE	PLEASE VERIFY TELEPHONE NUMBER AND MAKE ANY CHANGES ON BACK OF STUB					
[REDACTED]		GLENN R SPENCER		06/11/2010	[REDACTED]						
SERVICE DESCRIPTION			SERVICE LOCATION		MAP NUMBER	FUEL FACTOR	BILL TYPE				
BARN - NURSERY			PEELED OAK RD 1705		44-44-17	-0.0159020	REGULAR BILL				
SERVICE		NO. DAYS	METER NUMBER	READING		RATE	MULTIPLIER	KWH USAGE			
FROM	TO			PREVIOUS	PRESENT						
05/08/2010	06/07/2010	30	[REDACTED]	800	871	C	1.0000	71			
Activity Since Last Bill				\$ Amount		Current Bill Information				\$ Amount	
PREVIOUS BALANCE				20.86		FACILITY CHARGE				24.46	
PAYMENT				-20.86		ENERGY				7.24	
OTHER CHARGES/ADJUSTMENTS				0.00		FUEL ADJUSTMENT @ 0.0159020-				-1.13	
PRIOR BALANCE				0.00		KY STATE TAX				1.95	
						SCHOOL TAX				0.98	
						ENVIRONMENTAL SURCHARGE @ 6.39%				1.95	
						TOTAL CURRENT CHARGES				35.45	
<p>For billing inquiries please call: (859) 744-4251 or (800) 992-3269 8:00 A.M. - 4:30 P.M., M-F</p> <p>Failure to receive your bill does not exempt you from payment, late charges or disconnection.</p> <p>Five percent (5%) penalty will be added after due date.</p> <p>Night depositories are available at each Clark Energy office.</p>						Due Date		06/27/2010	Amt Due		\$35.45
						Past Due After		06/27/2010	Gross Due		\$37.22

Handwritten: usage went down
prior went up

PLEASE DETACH AND RETURN BOTTOM PORTION WITH PAYMENT

Pictures taken 1/10/17



Hay



→ OLB - tobacco stamping
elec room
meter



Hay



→ Hay



Hay

No elec in Hay Barn

RECEIVED

JAN 17 2017

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Commission