

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MENIFEE COUNTY BOARD OF EDUCATION)	
)	
COMPLAINANT)	
)	
V.)	CASE NO.
)	2011-0076
CLARK ENERGY COOPERATIVE, INC.)	
)	
DEFENDANT)	

O R D E R

The Menifee County Board of Education has filed a formal complaint with the Commission against Clark Energy Cooperative, Inc. ("Clark Energy").

The complaint is signed by Charles Mitchell, Superintendent of the Menifee County Board of Education, on behalf of the Menifee County Board of Education. On information and belief, Mr. Mitchell is not an attorney licensed to practice law in Kentucky.

No person may engage in the practice of law in Kentucky without first obtaining a license to practice.

The practice of law is any service rendered involving legal knowledge or legal advice, whether of representation, counsel or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services.¹

¹ SCR 3.020.

It includes, as Kentucky's highest court held in Kentucky State Bar Association v. Henry Vogt Machine Co., 416 S.W.2d 727 (Ky. 1967), the representation of a corporation before a state administrative agency.

As to its own proceedings, this Commission has adopted a similar position and has required that those representing the interests of others before us be licensed attorneys. In a previous case, the Commission ordered that:

[a]ny attorney who is not licensed to practice in the State of Kentucky and who seeks to represent a client or employer before this Commission, must engage a member of the Kentucky Bar Association as co-counsel.²

Commission regulations concerning formal complaints incorporate, at least in part, these sentiments. 807 KAR 5:001, Section 12(2), states in part: "[c]omplaints 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." The regulation requires that a corporation or other organization, from the outset of a complaint proceeding, be represented by an attorney.

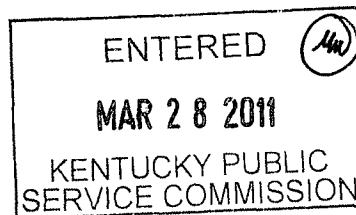
Based on the above, the Commission finds that the complaint of the Menifee County Board of Education fails to comply with Kentucky law and should not be accepted for filing. The Commission further finds that the Menifee County Board of Education shall be afforded the opportunity to file a complaint signed by an attorney licensed to practice law in Kentucky.

² Administrative Case No. 249, Practice Before the Commission by Attorneys Non-Licensed in the Commonwealth of Kentucky (Ky. PSC June 15, 1981) at 2.

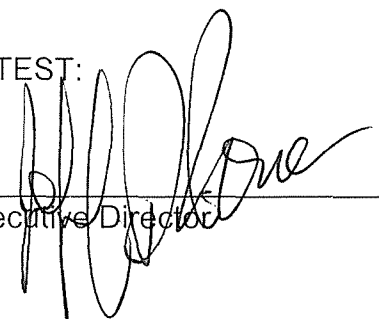
IT IS THEREFORE ORDERED that:

1. The complaint is rejected for filing.
2. Menifee County Board of Education shall be permitted to file a complaint submitted by an attorney licensed to practice in Kentucky within 20 days of the date of this Order.

By the Commission



ATTEST:



Executive Director

GS

RECEIVED

FEB 24 2011

PUBLIC SERVICE COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

Case No. 2011-00076

In the matter of:

MENIFEE COUNTY BOARD OF
EDUCATION

(Your Full Name) COMPLAINANT

VS. CLARK ENERGY

(Name of Utility) DEFENDANT

COMPLAINT

The complaint of Charles Mitchell-Superintendent respectfully shows:

- a) Menifee County Board Of Education
P.O. Box 110, 202 Back Street
Frenchburg, KY 40322
- b) Clark Energy
2640 Iron Works Road, P.O. Box 748,
Winchester, KY 40392-0748

c) The Menifee County Board of Education seeks the assistance of the Commission to resolve an incorrect billing matter for electric service received from Clark Energy.

It is the belief of Menifee that Clark Energy is required by Commission Regulations to refund for incorrectly billing service to Menifee County High School (Account Number [REDACTED]).

Menifee and Clark have determined that the incorrect billing began about November 2003 when an addition to the school required that a new underground padmount transformer be installed. This new transformer serves a second separate metered account from that of the high school account in question.

At this time it was noted by Clark Energy that electric load was being removed from the existing high school account and was being added to this new underground transformer, thus decreasing the KW demand on the existing overhead transformer system serving the high school.

The overhead transformer system serving the high school account has a capacity of 45 KVA (3 transformers @ 15 KVA each) with an average metered demand of 37 KW.

From about November 2003 to December 2009 the high school account (# [REDACTED]) was billed on Schedule L with a minimum based on 135 KW.

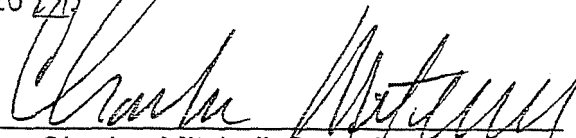
This incorrect billing was found upon a request from Menifee County Schools for an energy audit of their facilities by Clark Energy in December 2009. After the error was found, Clark Energy changed the minimum KW charge to be based on 50 KW and continued to incorrectly bill the account on Schedule L (available to all commercial and industrial customers with demands of 50 KW or greater).

In May 2010, Clark Energy changed the billing rate to Schedule C3 (available for all non-residential general power requirements with demands less than 50 KW).

It is the belief of Menifee County Board of Education that Clark Energy should refund the charges for the incorrect billing back to November 2003 according to PSC General Rules 807 KAR 5:006 Section 10 (2).

Wherefore, complainant asks the Public Service Commission to convene an informal conference to facilitate resolution of this matter and, if necessary, determine the time period and the applicable rate schedule to base the refund to the Menifee County Board Of Education for the incorrect billing by Clark Energy.

Dated at Frenchburg, Kentucky, this 17th day
of February, 2010
(Month)


Charles Mitchell, Superintendent

Paul G Embs
President & CEO
Clark Energy Cooperative, Inc.
2640 Ironworks Road
P. O. Box 748
Winchester, KY 40392-0748

Charles Mitchell
Superintendent
Menifee County Board of Education
P.O. Box 110
202 Black Street
Frenchburg, KENTUCKY 40322