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WAPA Faces Accusations of Widespread Consumer Fraud as Lawsuit Awaits Class-Action Determination

Residents allege widespread fraud and deceptive practices in a potentially landmark class-action lawsuit

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Consumers of electricity in the Virgin Islands are still awaiting word from the court on whether a lawsuit against WAPA for consumer fraud and deceptive business practices will receive class action status.

Several plaintiffs, who initially filed suit anonymously in 2021, sought leave from the court in January of this year to expand the lawsuit into a class- action, claiming that at least 50,000 of WAPA's ratepayers have been negatively impacted by chronic failures in WAPA's automated metering (AMI) system.

The class-action claim that the plaintiffs are seeking to add is one of consumer fraud and deceptive business practices, as the suit claims that WAPA and co-defendants Tantalus Systems Inc. and Itron Inc, who were involved in the manufacturing and installation of the smart meters, knew from the very beginning that the AMI system would not work. The lawsuit alleges that the companies “knew that this false information was provided to the United States Department of Agriculture...so WAPA could obtain a \$13 million loan” to install the system.

Included among the named plaintiffs are Johann Clendenin, former chair of the Public Services Commission, who claims that even as a member of the entity that regulates WAPA, he was unable to avoid receiving inflated bills for electricity his household never consumed. “Indeed, Plaintiff Johann Clendenin, who was a PSC Commissioner, complained to WAPA about his invoices that he knew were not based on actual usage to no avail,” the lawsuit alleges. During his tenure at the PSC, “WAPA officials lied, deflected, and did not admit that the meters were failing in the thousands. They also concealed the fact that the communication system was non-functional,” the amended complaint claims. When Mr. Clendenin, in his capacity on the PSC, continued to raise objections about various issues with WAPA, “it led to his termination as a Commissioner based on blatantly obvious and meritless pretext,” the lawsuit claims.

Gordon Ackley, chair of the territorial Republican Party, has also named himself as a plaintiff in the suit. He claims that his service was disconnected due to an outstanding bill of \$8553, which WAPA reportedly subsequently acknowledged as erroneous. Despite this admission, the company has allegedly continued to threaten Mr. Ackley with disconnections, the amended complaint alleges.

Another named plaintiff, Catherine Stephen, says her WAPA bills doubled after she and her husband installed a solar system with battery backup. “During the Christmas season, Catherine conserved to the extent she would not turn on their Christmas lights. She didn’t even cook Christmas dinner; WAPA sent her a bill for \$309,” the lawsuit claims.

Clifford Joseph, the third of 12 named plaintiffs, says that even going off grid was not enough to save him from WAPA’s egregious billing practices. In November 2023, Mr. Joseph says he installed a solar power system, and as such went off the grid. “WAPA continues to send him monthly invoices for over \$300. Joseph complained and WAPA promised to read his meter. Although a meter reader showed up, he said he was there to read meters on residences on either side of Joseph, but not him. His meter has not been read as of yet,” the lawsuit recounts.

Commercial ratepayers have also been adversely affected, and have joined the class action. Gasworks, Inc, which operates a service station, convenience store, and restaurant in one location on St. Thomas, began installing solar panels in 2013 after which the company’s electricity bill dropped to around \$1000 per month. Following the installation of a smart meter, the bills reportedly began rising steadily by about \$1000 every month, topping out at \$10,000 monthly. Repeated requests for a physical meter reading have allegedly fallen on deaf ears.

Apart from the vexing issue of receiving what they say are wildly inaccurate bills, plaintiffs are also claiming that WAPA’s business practices are unfair, deceptive, and unlawful.

Customers with queries or challenges to their bills are left with little recourse. “WAPA did not and does not provide any procedural due process for a consumer to dispute an unusually high bill,” the lawsuit claims. Instead, by way of the threat of disconnection, WAPA coerces ratepayers into settling the erroneous invoice. Even if an intrepid consumer turns to the PSC for redress, “the PSC has no procedures, including notice and/or a hearing, to resolve ratepayers’ complaints,” the

lawsuit alleges. Those with the means to do so have often been driven to install alternate energy systems to escape WAPA's clutches, the lawsuit claims.

The poor treatment by WAPA does not extend to all ratepayers, plaintiffs allege. Preferential treatment is "reserved for the politically-connected," such as one individual who was reportedly allowed to accumulate a past-due balance of almost \$200,000 without the threat of disconnection.

The amended complaint, which attorneys for the plaintiffs say came about after "insider individuals" came forward with more information about WAPA's billing practices, makes additional shocking allegations about conflicts of interest and corruption. Former Executive Director Hugo Hodge, under whose leadership the faulty AMI system was deployed, took up a managerial position within Tantalus within six months of his separation from WAPA. The lawsuit also links [Niel Vanterpool's guilty plea to a 2021](#) conflict of interest charge to the AMI project.

Additionally, the lawsuit claims that an external collaborator assigned to WAPA during the Mapp administration was threatened "directly and indirectly" after asking pointed questions about various irregularities including those pertaining to the smart meter system. High-ranking officials intimated that if the individual did not leave the territory, "he would disappear," according to the suit.

The lawsuit, seen [here](#), asks the court to award all plaintiffs economic damages, costs to cover the replacement of their smart meters with analog versions, consequential damages for installing emergency alternate energy, and non-economic damages.

WAPA, as might be expected, has opposed the plaintiff's quest to expand their lawsuit against the utility company; so have Tantalus and Itron, claiming that there are fatal deficiencies in the underlying complaint that have not been solved by the proposed amendments, which in their view merely add "more plaintiffs who are unhappy with WAPA for various reasons."

The court now awaits a response from the plaintiffs before making a decision on whether to allow the initial complaint to be amended in this manner.