

logo not found or type unknown

WAPA Customers and Plaintiffs Urge Judge to Allow Discovery in AMI System Fraud Case

Attorneys for the plaintiffs emphasize the critical need to proceed with discovery to address widespread deceptive billing practices caused by WAPA's faulty AMI system, which has disproportionately affected elderly residents

WAPA / **Published On July 27, 2024 06:03 AM /**

Janeke Simon **July 27, 2024**

Image not found or type unknown



Attorneys for the plaintiffs in the civil lawsuit accusing the Water and Power Authority of widespread consumer fraud have filed a motion begging the District Court to move forward with the discovery process.

The lawsuit, filed in December 2021, accuses WAPA of deceptive business practices and unfair billing, stemming from the utility's installation of an automated metering system that they knew

was unfit for purpose.?

In January, the plaintiffs sought leave to expand the matter into a [class-action lawsuit](#), claiming that at least 50,000 WAPA consumers have been affected by questionable bills. Former Public Services Commission Chair Johann Clendinen is one of the named plaintiffs, as is Gordon Ackley, Chair of the territorial Republican Party. Defendants include WAPA, Tantalus Systems Inc., and Itron Inc. The latter two companies were involved in the manufacture and installation of WAPA's smart meters.

District Court magistrate Ruth Miller granted motions from the defendants to stay discovery in the matter at the end of January, and denied a motion to reconsider a few days later. Since then, according to plaintiffs, "the case has been dormant for months."?

The lack of progress while the parties await Judge Miller's decision on several pending motions to dismiss from the defendants has troubling implications, plaintiffs argue. Many people hoping to be part of any putative class should class-action status be granted are elderly. Attorneys for the plaintiffs describe an elderly woman calling to express concerns about erroneously high electricity bills hours before her death. They note several others involved in the suit, either as relators or witnesses, who have either also passed away, or who are over the age of 65.?

Institutions like the Caribbean Kidney Center, which has publicly struggled to [finance its operations](#) on more than one occasion, have also been hit hard by what this latest motion describes as "unexplained, erratic bills."?

The court's urgency in dealing with this lawsuit is also necessary due to the threat the AMI system poses to the territory at large, attorneys say. According to the findings of someone they deem an expert in such matters, "due to faulty installation and/or design, WAPA's AMI smart meter system could be 'hacked by a reasonably intelligent seventh grader with a laptop'." This poses "a serious national security risk" the attorneys claim, since the Virgin Islands is a port of entry into the United States.

Lawyers for the plaintiffs argue that staying discovery while motions to dismiss are pending are not supported by the Federal Rules of Civil Procedure, and there is nothing barring Judge Miller from allowing discovery to proceed while she mulls over the motions before her. After all, "defendants have had Plaintiffs' document demands for over nine months" the motion states – plenty of time to collate the responsive documents and submit them for discovery, the plaintiffs' attorneys imply.