

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS & ST. JOHN

<p>KH, RV and JD,</p> <p>Plaintiffs/Qui Tam Relators,</p> <p>v.</p> <p>Virgin Islands Water & Power Authority, Tantalus Systems Holding, Inc., Itron, Inc. Noel Hodge, and Anthony Thomas, John Does 1-10.</p> <p>Defendants.</p>	<p>Civil No. 2021/</p> <p>JURY TRIAL DEMANDED</p>
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COMPLAINT

The United States of America, by and through qui tam Relators, bring this action under Title 31 of the US Code, Sections 3729 *et. seq.* (False Claims Act) to recover damages, remedies and other penalties. Plaintiff/Qui Tam Relator(s), on behalf of the United States. The Relators also bring a due process claim and two claims related to national security.

INTRODUCTION

1. The Water and Power Authority ("WAPA") of the U.S. Virgin Islands is a government-owned public utility that provides electric and water utility service to all Virgin Islands ratepayers, both residential and commercial customers. In 2015, WAPA contracted with Defendant Tantalus and Defendant Itron to replace its customers' analog meters with the Tantalus/Itron Advanced Metering Infrastructure "AMI" "smart grid" system.
2. Defendants Tantalus and Itron claimed that if WAPA agreed to install their AMI "smart grid" system, WAPA would then have automatic, remote reporting of WAPA's customers' energy consumption for billing purposes and could save money by terminating its meters readers. Based on these representations, WAPA eliminated all or substantially all of its meter reader workforce.
3. For decades, the typical WAPA customer has had no avenue of redress if they received a questionable bill. WAPA's customers have had only two choices: Pay or lose their electrical service. After the \$16 million-dollar Tantalus/Itron AMI "smart grid" system was installed, nothing changed.
4. Since Defendant Tantalus, Defendant Itron and Defendant John Does' AMI "smart grid" system was installed in the US Virgin Islands, WAPA's customers have received and continue to receive wildly inaccurate bills.

PARTIES AND JURISDICTION

5. Plaintiff/Qui Tam Relator KH resides with his family in the US Virgin Islands and is one of many customers harmed by WAPA's billing practices.

Additionally, since the Tantalus/Itron AMI "smart grid" system was installed, WAPA has mailed him exorbitant billing based on alleged, erratic, and inaccurate usage.

6. Plaintiff/Qui Tam Relator RV resides in the US Virgin Islands and is one of WAPA's customers harmed by WAPA's discriminatory billing practices. Since the Tantalus AMI "smart grid" system was installed and he was connected to it, he has been unlawfully billed for electricity that he and his family did not use. He has received unexplained, extraordinary bills.
7. Plaintiff/Qui Tam Relator JD is a 94-year old woman resides in the US Virgin Islands and is one of WAPA's customers harmed by WAPA's discriminatory billing practices. Since the Tantalus AMI "smart grid" system was installed and she was connected to it, she has been unlawfully billed for electricity. She has received unexplained, extraordinary bills and her service was disconnected for a \$58 balance.
8. Defendant Tantalus Systems, Inc. is a publicly-traded corporation duly organized and existing under the laws of the State of Delaware since May 12, 2010 and having its principal place of business located at 1121 Situs Court, Suite 190, Raleigh, NC 27606. Defendant's registered agent is RL&F Service Corp., 920 N. King St. Fl. 2, Wilmington, DE 19801. Upon information and belief, along with Tantalus products and services, Tantalus also acts as some sort of General Contractor for AMI "smart grid" systems.

9. Upon information and belief, Defendant Itron, Inc., who may also be known as Itron Networked Services, Inc. (Itron), is a corporation organized and existing under the laws of the State of Washington and maintains its principal place of business at 2111 N. Molter Road, Liberty Lake, Washington. Upon information and belief, Itron is a technology provider to the global energy and water industries, providing hardware, data collection and utility software solutions in the "smart grid" industry.
10. Defendant Virgin Islands Water & Power Authority (WAPA) is an autonomous government instrumentality that provides 100% of the electricity to residential and commercial customers ("off-grid" exception). WAPA also provides water to customers who are located within certain geographic regions in the US Virgin Islands. 30 V.I.C § 103(b).
11. Defendant Anthony Thomas is an individual domiciled in St. Thomas, US Virgin Islands and at all times relevant herein served as WAPA's Chairman of the Board. Thomas is sued in individually and his official capacity for affirmative injunctive relief only with any related costs.
12. Defendant Noel Hodge is an individual domiciled in St. Thomas, US Virgin Islands; he has served as WAPA's Executive Director and CEO since March 7, 2021. Hodge is sued individually and in his official capacity for affirmative injunctive relief only with any related costs.
13. Defendant John Does 1 through 5 are corporations, companies or other entities whose identities are currently unknown to Plaintiffs/Qui Tam

Relators. Therefore, the Relators sue such Defendants by such fictitious names Plaintiffs/Qui Tam Relators are informed and believe, and upon such information and belief allege, that such JOHN DOE defendants designed and/or manufactured and/or placed into the stream of commerce the Tantalus/Itron AMI (Advanced Metering Infrastructure) "smart grid" system, or a component thereof, which Plaintiffs/Qui Tam Relators allege gave rise to the claims in this matter, and/or who warranted that the **hardware system/devices** would accurately measure and report Plaintiffs/Qui Tam Relators' electricity usage. The Tantalus AMI "smart grid" system did not and does not accurately measure and report Plaintiffs/Qui Tam Relator(s)' electricity usage.

14. Defendant John Does 6-8 designed and/or manufactured and/or placed into the stream of commerce the **wireless communications system**, including its component parts, which transmits the information from the Smart Meters which Plaintiffs/Qui Tam Relators allege gave rise to their claims in this matter to WAPA, and/or who warranted that the wireless communications system, including its component parts, would accurately report Plaintiffs/Qui Tam Relators' electricity usage to WAPA. Plaintiffs/Qui Tam Relators are informed and believed and thereon allege that the wireless communications system, including its component parts, did not and does not accurately report Plaintiffs/Qui Tam Relators' electricity usage to WAPA.

15. Defendant John Does 9-10 are corporations, companies or other entities whose identities are currently unknown to Plaintiffs/Qui Tam Relators, and therefore sue such Defendants by such fictitious names. Plaintiffs/Qui Tam Relators are informed and believe, and upon such information and belief allege, that such DOE defendants designed and/or manufactured and/or placed into the stream of commerce **the software** which monitors and processes the data received from the wireless communications system, including its component parts, which transmits the information from the Smart Meters which Plaintiffs/Qui Tam Relators allege gave rise to their claims in this matter to WAPA, and/or who warranted that the software would accurately report Plaintiffs/Qui Tam Relators' electricity usage and/or identify any discrepancies in the data being reported. Plaintiffs/Qui Tam Relators are informed and believed and thereon allege that the software including its component parts, did not and does not accurately report Plaintiffs/Qui Tam Relators' electricity usage to WAPA.
16. Venue is proper in the United States District Court of the US Virgin Islands because all material acts alleged in this cause of action occurred in the U.S. Virgin Islands, and the cause of action accrued in the U.S. Virgin Islands. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

Federal Question Jurisdiction

17. This action is brought under 42 U.S.C. §1983:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the

District of Columbia, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress...

18. WAPA overbills its customers as a result of the non-functional Tantalus/Itron AMI "smart grid" system. When some customers cannot pay, WAPA has violated its customers' due process rights by unlawfully terminating and threatening to terminate their electric service without any formal avenue to dispute the charges. WAPA's terminations and threats of termination qualify for state action within the purview of the Civil Rights Acts, and thus provides federal question jurisdiction pursuant to 28 USC § 1331. 28 U.S.C. §1343.

False Claims Act

19. This Action is also brought under the False Claims Act (FCA), which is the only real functioning example of an optimally designed avenue of private justice. 31 U.S.C. § 3729 *et. seq.*
20. Defendant Tantalus, Defendant Itron and Defendant John Does falsely represented the functionality and the technological aspects of the Tantalus/Itron AMI "smart grid" system that it designed, sold and/or manufactured and was then installed into the US Virgin Islands power grid.
21. Defendant Tantalus, Defendant Itron and Defendant John Does knew that this false information was provided to the USDA RD so WAPA could obtain a \$13

million-dollar loan. WAPA still owes \$11 million dollars for the defective, non-functioning Tantalus/Itron AMI "smart grid" system.

Supplemental Jurisdiction.

22. We ask that this Court also exercise supplemental jurisdiction over **Count III** (Duty to Warn of Catastrophic Risk) and **Count IV** (Design/Manufacturing Defect) as they both involve serious security issues in a jurisdiction that is a United States Border.

FACTUAL ALLEGATIONS

23. The US Virgin Islands residents pay three times the national average per kWh of electricity allegedly due to its dependency on fuel oil and LPG gas. Upon information and belief, WAPA has stated that it needs to increase rates by 50%, at least in part, to resolve the non-functionality of the Tantalus/Itron "smart grid" system. The VI ratepayers cannot afford and should not be saddled with a "smart grid" system that does not accurately reflect the electricity that they have consumed.

Wildly Inaccurate and Unlawful Billing.

24. WAPA's incorrectly billing is based on its estimated electrical usage of its customers instead of the actual amount of electricity consumed by its customers.
25. WAPA is required to charge its customers based on the amount of electricity actually used, measured in kilowatt hours, in addition to what is referred to as a LEAC charge (Levelized Energy Adjustment Clause).

26. WAPA is required by Virgin Islands' law to read each meter monthly, but admittedly does not do so.¹ In fact, in reliance on Defendants Tantalus and Itron's representations, WAPA laid off and/or terminated the majority of its meter readers after the so-called installation of the Tantalus/Itron "smart grid" system.
27. WAPA is also prohibited by Virgin Islands' law from back-billing its customers with limited exceptions. As had become a pattern, WAPA ignores this Virgin Islands' consumer protection law, too. 30 VIC §127.
28. WAPA spent over \$16 million dollars on the Tantalus/Itron AMI "smart grid" system to allegedly provide its customers with accurate bills based on actual usage. WAPA financed this venture by applying for a \$13 million-dollar loan from the US Department of Agriculture, RUS Division. WAPA owes a balance of almost \$11 million dollars for the Tantalus/Itron "smart grid" system that was never fully functional.
29. Since the installation of the Tantalus/Itron AMI "smart grid" system, WAPA has sent, and continues to send bills to its customers that do not reflect their actual usage. WAPA estimates and/or simply fabricates its customers' usage.

¹ 30 VIC § 125 provides:

(a) The electric power service meters shall be read at least once every month by duly trained personnel of the Authority.

- (b) At the time of reading the meter, the Authority employee making the actual reading shall leave a written notice informing the subscriber of the results of the reading affixed to the meter or in a convenient place likely to be found by the subscriber as evidence of the reading

30. Despite knowing there are problems with the Tantalus/Itron AMI "smart grid" system,² WAPA does not provide any procedural due process for a consumer to dispute an unusually high bill. WAPA's policy is first threaten, then terminate the service of the average Virgin Islands' consumer and unabashedly charge their customers a re-connect fee leaving their customers without no option but to pay the bill or to go without electricity.

Background of The Itron/Tantalus AMI "smart grid" system.

31. Under WAPA Director Hugo Hodge's direction, the WAPA explored installing an AMI (Advanced Metering Infrastructure)" smart grid" system.³
32. WAPA represented that the Tantalus/Itron "smart meter" system was going to save WAPA and its customers "a lot of money in the long run" because WAPA

² Many, including some government officials, say that the touted benefits of "smart" systems have not materialized, while the negative ramifications have proven disastrous. <https://www.westonaprice.org/health-topics/environmental-toxins/smart-meters-not-so-smart/>; In Puerto Rico, smart meters were hacked en masse resulting in wide-spread billing fraud. <http://krebsonsecurity.com/2012/04/fbi-smart-meter-hacks-likely-to-spread/>. The FBI warns that insiders and individuals with only a moderate level of computer knowledge are likely able to compromise meters with low-cost tools and software readily available on the Internet. Kentucky, Massachusetts, New Mexico, Virginia Officials Say No to "Smart" Meters Due to Cost and Ineffectiveness.

³ There are two main types of smart meters: automatic meter reading (AMR) and advanced metering infrastructure (AMI). AMR meters use one-way communication and primarily act as digital "meter readers." This is done by constantly emitting data via RF radiation, so that when a utility vehicle drives by, the reading can be picked up and logged. AMI meters use two-way communication to both transmit usage information and perform observation and maintenance tasks. However, instead of needing to rely on a vehicle driving by to relay the information, they use existing networks and infrastructure to constantly send usage data back to the utility companies' servers.

could eliminate the expense of meter readers. WAPA Defendants, Tantalus also claimed WAPA customers could monitor their real time usage and conserve. Most importantly, these Defendants represented that WAPA customers would be charged based on their actual consumption. Defendant Tantalus and Defendant Itron knew and/or should have known those representations to be untrue.

33. WAPA's customers, were not allowed to opt out of the Tantalus/Itron AMI "smart grid" system and keep their analog meters.

34. The overarching technological components of AMI "smart grid" system include:

- **Smart Meters-** Advanced meter devices having the capacity to collect information about energy, water, and gas usage at various intervals and transmitting the data through fixed communication networks to utility, as well as receiving information like pricing signals from utility and conveying it to consumer. Smart meters are essentially computers with a life of between 5 and 7 years that have to be maintained with software upgrades, etc. (The life of an analog meter is 20-30 years).
- **Communication Network:** Advanced communication networks which supports two-way communication enables information from smart meters to utility companies and vice-versa. Networks such as Broadband over PowerLine (BPL), Power Line Communications, Fiber Optic Communication, Fixed Radio Frequency or public networks (e.g., landline, cellular, paging) are used for such purposes.
- **Meter Data Acquisition System-** Software applications on the Control Centre hardware and the DCUs (Data Concentrator Units) used to acquire data from meters via communication network and send it to the MDMS
- **Meter Data Management System (MDMS):** Host system which receives, stores and analyzes the metering information.

35. On or about March 5, 2014 and subsequent change-orders, WAPA entered into contractual terms with Defendants Tantalus and Itron⁴ for the purchase of their AMI "smart grid" system financed by a 20-year \$13 Million USDA loan to be satisfied in 2034. WAPA claimed the Tantalus/Itron AMI "smart grid" system would be phased-in and operational by June 2015.⁵
36. Defendant Tantalus and Defendant Itron guaranteed 100% coverage for the three islands of St. Thomas, St. John and St. Croix. The two-way, multi-purpose platform that was supposed to enable access to data to power advanced Smart Grid applications contracted for was never functional as represented. Defendant Tantalus and Defendant Itron's representations that WAPA's customers could monitor energy consumption "real time", conserve energy and save money never happened either. WAPA terminated its meter readers based on the Tantalus/Itron's representations. Another big mistake.

⁴ Itron provides metering technology; Tantalus provides the data communications network that delivers the data needed for Smart Grid applications. Itron manufactures solid state Centron meters. <https://www.tdworld.com/smart-utility/article/20963564/centron-meters-integrated-with-tantalus-communications-modules>

⁵ In December 2007 both houses of the US Congress passed and President George W. Bush signed into law the [Energy Independence and Security Act \(EISA\)](#). Tucked away in the back pages of this 310-page piece of legislation is the description and de facto mandate for national implementation of the Smart Grid system. The Obama Administration Department of Energy (DOE) and the U.S. Department of Agriculture (USDA) were among federal heavyweights behind the thundering AMI rollout. In 2009, a time of economic crisis, the federal government allocated \$11 billion in taxpayer funds to develop the "smart grid" system. Several universities and corporations profited hugely by providing AMI equipment, software and expertise. These include General Electric, IBM, Hewlett Packard, Siemens, Toshiba, Microsoft, Cisco, Verizon, Google, Itron and Tantalus.

37. The Defendants represented that “the Itron-Tantalus solution . . . is designed to cost-effectively leverage as much existing infrastructure as possible, including fiber and microwave backhaul technology, over extremely rugged terrain.”⁶ Upon information and belief, this representation was also factually baseless.
38. The Defendants also claimed that the system’s life was 15 years, which is contrary to industry experts’ opinions (5-7 years). Why the USDA RUS entered into a 20-year financing agreement for \$13 million dollars is mind-boggling.
39. Upon information and belief, over 50,000 meters have been installed in the Virgin Islands to date.⁷ It cannot be said enough that WAPA, Tantalus and Itron knew, have known and/or should have known that the communication aspect of the system was not functional from the outset; that the Tantalus/Itron AMI “smart meter” system did not and would not provide US Virgin Islands residents with access to real time usage; that the meter readings were not and are not electronically transmitted to WAPA’s billing offices; and, a majority, if not all, of the “smart meters” are not functional.

⁶ <https://www.tantalus.com/2014/03/05/virgin-islands-water-and-power-authority-selects-itrone-and-tantalus-for-advanced-metering-infrastructure/>

⁷ [https://stcroixsource.com/2015/04/23/wapa-representatives-explain-smart-metering/;](https://stcroixsource.com/2015/04/23/wapa-representatives-explain-smart-metering/)

The US VIRGIN ISLANDS IS NOW VERY VULNERABLE TO CYBER ATTACK.

40. Additionally, by installing the Tantalus/Itron dysfunctional AMI "smart grid" system, the Defendants have created an environment in the US Virgin Islands' electrical grid vulnerable to Cyber Attacks as there is little, if any, cyber security.
41. The US Virgin Islands is a United States Border. It is no secret that when the electrical grid is down there is increased drugs, weapons, and human trafficking coming through the US Virgin Islands often destined for the United States.

Intentional Concealment.

42. For years, WAPA has avoided disclosing that the Tantalus/Itron AMI "smart grid" system is not communicating the actual consumption from its customers to WAPA.
43. It has not yet been definitively established the specifications of the Tantalus/Itron AMI "smart grid" system because it has been impossible to obtain a copy of the substantive contractual documents.
44. Although WAPA is subject to the VI Sunshine Laws of transparency,⁸ WAPA and its leadership have repeatedly refused to produce any details or copies of its contracts including but not limited to the contract with Tantalus and/or the

⁸ The PSC claimed that WAPA refused to provide it the VITOL fuel agreements. This seems suspect given the Inspector General's report of November 29, 2021. WAPA also concealed the fact that it abandoned a \$7-8 million generator in Minnesota until confronted by VI Legislature. See, SIGMA v. VIWAPA, 19 HA-CV 15-2470, which is the tip of the iceberg given the VI IG report.

sub-contractors including the 33rd and 34th Virgin Islands legislative bodies. WAPA and Tantalus continued to obstruct all efforts to obtain the contractual documents incorporated by reference and the exhibits, which contain the substantive terms.⁹

45. On or about March 13, 2021, a FOIA request was made to the USDA RUS to obtain a copy of the WAPA TANTALUS contract. The USDA had 30 days (20 business days) to provide a response. The caseworker reported that they could not locate the Tantalus contract. The case worker, Marius President, explained that WAPA (and Tantalus) had 30 days to object based on confidentiality. Despite explaining to Marius President that WAPA was subject to the Virgin Islands Open Records Act ("Sunshine laws") and was not subject to the USDA FOIA regulations that protect "confidential" information. On the last day to respond, the USDA caseworker, Marcus President, produced a copy of the contract but did not provide the exhibits incorporated by reference that include the substantive terms. When the deficiency was pointed out, the USDA RD advised the only option was a lengthy appeal.
46. In an effort to avoid a lengthy appeal, on May 13, 2021, a SECOND FOIA request was submitted specifically requesting production of the referenced substantive documents (RFP and response to RFP), the Contract Exhibits and

⁹ Tantalus Contract Exhibit IV includes details of communication capital projects that include GPS/GIS, SCADA DA, AMI/AMR, Communication Equipment, MWM and AVL and Crew Management, MDM, OMS IVR which are described within a separate Work Plan document.

all communication between USDA and WAPA regarding the FOIA request. On the deadline of the second FOIA request, the case worker sent correspondence that there was a diligent search being performed to search for the contract exhibits and there was no expected date of locating these records contrary to their own rules and regulations.¹⁰

47. Urgency was emphasized; Mr. Marius President explained the request had now been placed at the end of the line.
48. The USDA RD did provide additional documents but no contract exhibits with the substantive terms including the products and services that were paid for. When pressed, the agent explained that this material was uploaded to a website and the USDA RD had never downloaded the exhibits and they no longer had access to them. Incredulously, they were asked how did the USDA RD extend a \$13 million dollar-loan and not know what it was that was actually being purchased. No response was received.

Concealment of Contractual Terms and Relationships is a pattern.

49. Niel Vanterpool, WAPA's Director of Transmission and Distribution, reported that beginning in April and May 2015, WAPA would be deploying the new Tantalus meters in St. John and St. Croix. *Id.* at fn. 5. Vanterpool assured WAPA customers:

¹⁰ 5 U.S.C. Â§ 552(a)(6)(B)(i) (In "unusual circumstances," an agency can extend the twenty-day time limit for processing a FOIA request if it tells the requester in writing why it needs the extension and when it will make a determination on the request. The extension is for 10 days.

"As we develop the system, there will be a time when our customers can log on to a website and actually track their consumption, hour by hour. We are that confident that once completed, our ratepayers will have every confidence that they are receiving the electrical power they are paying for," Vanterpool said in response to a board member's question.

50. On January 28, 2021, Vanterpool was arrested for criminal conflict of interest violations with respect to the Tantalus/Itron AMI "smart grid" project.
51. Rather than admit its mistakes and fix them, WAPA billed and continued to bill its customers based on what -- nobody really knows.
52. Tantalus falsely represented and warranted to WAPA that the life of the "smart grid" system was 15 years, which is false.
53. Hugo Hodge, WAPA's Director, never initiated a lawsuit against Defendant Tantalus, Defendant Itron or any John Does.
54. When it was announced WAPA was not going to renew Hodge's contract, on or about January 25, 2016, the WAPA Board terminated Hodge's contract five (5) months early entitling him to a \$235,000 golden parachute.
55. On or about April 12, 2016, Hodge accepted employment with Tantalus as General Manager of the Caribbean Basin.
56. Only after immense pressure, at a February 23, 2021 Legislative Hearing with the 34th Legislature, WAPA admitted that the Tantalus/Itron AMI "smart grid" system was-not functioning properly. After its February 23, 2021 revelation, WAPA began advertising for meter readers. Despite hiring meter readers, WAPA has continued to mail bogus bills to its customers and threaten to terminate them if the bills are not paid.

57. Again, only in response to intense pressure, on or about November 15, 2021, WAPA admitted that at least 12,000 of its customers were receiving estimated bills.¹¹ Upon information and belief, WAPA officials are still not telling the truth and this is a gross understatement.
58. On November 29, 2021, the US Virgin Islands Inspector General distributed a report reflecting WAPA officials' concealment of their mismanagement and malfeasance, under the director of Hugo Hodge, of millions of dollars related to unauthorized, unapproved, and highly suspicious contracts.¹²
59. WAPA, with Tantalus and Itron's tacit approval, also concealed that the Tantalus/Itron AMI "smart grid" system has never had the functionality to reliably report electrical consumption data to and from consumers to WAPA.

¹¹ The Virgin Islands Daily News, http://www.virginislandsdailynews.com/news/wapa-estimating-more-and-more-bills-as-it-has-trouble-with-meters/article_afab1dba-24b8-51be-ac40-e1f81e99c476.html (last visited 11/30/2021); See also, The VI Consortium, <https://viconsortium.com/vi-wapa/virgin-islands-wapa-automated-meter-system-not-communicating-with-over-12000-customer-meters-leading-to-high-level-of-estimated-billing> (last visited 11/30/2021).

¹² Ernice Gilbert, VI Consortium, \$92 Million in Unapproved Change Orders; \$113 Million in Cost Overruns; Incompetent Board: Inspector General's WAPA Audit Exposes Propane Project Fiasco, <https://viconsortium.com/vi-wapa/virgin-islands-92-million-in-unapproved-change-orders-113-million-in-cost-overruns-incompetent-board-inspector-generals-wapa-audit-exposes-propane-project-fiasco> (last visited 11/30/2021).

60. Again, with Tantalus and Itron's tacit participation, WAPA has concealed that it has been unable to reliably record its customers' readings using the AMI "smart grid" system.¹³

KH requested Daily Usage reports and was shocked.

61. After receiving erratic bills from WAPA, KH obtained daily usage reports from WAPA. The clerk did not want to provide these reports to him and he pushed. The WAPA daily usage reports are and were unreliable as some days reflect high usage and other days reflect no usage at all.
62. KH knows that this is false because his family has been home and using power.
63. KH has complained to WAPA to no avail. KH and the people of the Virgin Islands deserve an explanation.

RV closed his house for 6 weeks and WAPA sent fraudulent bills.

64. RV and his wife traveled to the United States to settle their children into college. They left on June 7, 2021 and returned on July 20, 2021.
65. While they were in the United States, no one had access to their residence and everything was turned off except the Whirlpool refrigerator, Model No.

¹³ <https://www.utwente.nl/en/news/2017/3/313543/electronic-energy-meters-false-readings-almost-six-times-higher-than-actual-energy-consumption#study>;
<https://research.utwente.nl/en/publications/runaway-energy-meters-due-to-conducted-electromagnetic-interferen>;
https://www.theregister.com/2017/03/06/smart_meters_prove_dim/

The professors' study (conducted European watt-hour meters) found that when some smart meters measured energy usage under AC waveform (LED; dimmers, etc.) that were extremely non-sinusoidal, the reported energy usage had very large measurement errors, up to 500 %.

WRF535SWBM00. Unless Whirlpool is lying, which is highly unlikely, this energy star-certified refrigerator uses only an average of 616 kWh a year.

66. When RV returned home, he had received two WAPA bills in the mail. WAPA's alleged kilowatt usage doesn't add up. On the July 12, 2021 bill, WAPA claimed the service date was from June 4, 2021 through July 6, 2021 and that RV used a total of 602 kilowatts for the service period and an average of 18.81 kilowatts per day. The second bill dated August 10, 2021 bill, WAPA represented that the "service period" began July 6, 2021 through August 2, 2021. On that invoice, WAPA claimed that RV used 1,260 kilowatts. WAPA reflected that RV used an average of 46.56 kWh per day.
67. In comparison with the above two invoices, WAPA sent RV an invoice dated May 14, 2021, when RV and his wife were home during the "service period" from April 9, 2021 through May 6, 2021. WAPA represented that RV used 654 kWh during this service period with an average daily use of 25 kWh per day.
68. When they left for the states, RV also turned the water off at the street. Yet, he received a water bill for sixty dollars (\$60).

WAPA's arbitrary termination practices are unbearable for Seniors.¹⁴

69. JD is a 94-year-old woman who was born and lives in St. Thomas. Her WAPA bills over the last year ranged from \$50.44 to \$102 until November 23, 2020, when WAPA sent her a bill for \$502. She and her family members pointed out to WAPA customer service that the increase made no sense. WAPA's "customer service" told her to pay the bill or her service would be terminated. If she had not paid her WAPA bill, WAPA would have disconnected her electricity for the Christmas holidays.
70. The following month WAPA mailed out her December bill of \$339.84.
71. When JD's family contacted WAPA, as a pattern and practice, WAPA's customer service falsely claimed that her meter had been read every month and that the increase in her bill is due to additional usage. Again, WAPA failed to provide any reasonable explanation or procedure to contest these extraordinary bills.
72. On or about June 13, 2021, in the middle of a heat wave, WAPA disconnected JD's electricity for a \$58 balance.

¹⁴ There is no senior citizen center in St. Thomas. Prior to Hurricane Irma and Hurricane Maria, you would often find many senior citizens at the Turnbull Library in Tutu. They sat and read magazines, books and socialized. One other important reason they were there is to cool-out. They could not afford air conditioning at home. Since the hurricanes, the government took over the library for offices. There is no longer a respite in St. Thomas.

73. Unlike JD who was disconnected for a \$58 balance, WAPA provided Isle 95 radio station owner, Jonathan Cohen, special treatment. Cohen racked up \$195,000 in past due WAPA bills without disconnection.¹⁵

Cyber Attack vulnerability.

74. A "smart grid" system integrates the traditional electrical power grid with information and communication technologies (ICT).¹⁶
75. Security remains to be one of the most important issues in "smart grid" systems given the dangers that befall residents and businesses if the grid falls under attack.
76. Without security measures, the introduction of ICT systems into a power grid exposes the grid to a number of vulnerabilities. These vulnerabilities can be exploited by attackers with different motives and expertise and could cause different levels of damage to the network. Attackers could be script kiddies, elite hackers, terrorists, employees, competitors, or customers.
77. Industry experts all agree that security is only truly effective only when it is built in from the beginning and maintained throughout the life of the system.

¹⁵ <https://vifreepress.com/2016/01/board-votes/> (Cohen overdue bills) (last visited 11/30/2021).

¹⁶ A smart grid system is coupled with the relatively short-lived IT systems. It is inevitable that outdated equipment is still in service. This equipment might act as weak security points and might very well be incompatible with the current power system devices.

78. The power industry has recognized for years that an investment in smart technology exposes the power grid to catastrophic consequences if not properly installed and maintained in reliable infrastructure in place beforehand.
79. At a minimum, a "smart grid" system should include a set of authentication, encryption and key management protocols to be used by utility industry, vendor communities, and other "smart grid" stakeholders for deploying a secure "smart grid" system.
80. If a "smart grid" system is installed without adequate cyber security, the impact of a threat that will cripple businesses, cause a wide-scale blackout¹⁷, and result in millions or billions of dollars in economic damage.
81. Because it has been impossible to obtain the Tantalus/Itron Contract exhibits and referenced documents, no assessment can be conducted of the hardware, which may also pose a huge security risk. For example, recently the US Department of Defense seized Chinese Transformers at port due to a discovery of backdoor hardware chips. There are hardware chips in the smart meters, too.

¹⁷ The US Virgin Islands' residents experience wide-scale black-outs without adequate explanation. For example, only, on Sunday, June 13, 2021, the islands of St. Thomas and St. John experienced a black out for five (5) hours. On June 17, 2021, VI residents reported blackouts all day and at 11:35 p.m. the Virgin Islands experienced another widespread blackout. Still no power the following morning WAPA announced that there was no timeline for restoration of service. WAPA did not restore power until after 11 a.m.

**COUNT I
(THE DUE PROCESS RIGHT TO LIGHT)**

82. Plaintiffs/Qui Tam Relators reallege all the proceeding paragraphs as if the same were fully set forth herein.
83. In part, the US Constitution says that no person may be deprived of life, liberty, or property without due process of law.¹⁸ Substantive due process looks at whom the law will impact and what impact the law will have. Procedural due process looks at how the law is implemented and enforced.
84. There are two requirements for a Section 1983 cause of action for violation of the Due Process Clause. First, there must be a recognized "liberty or property" interest. Second, there must be an intentional or reckless deprivation of that interest under color of state law.
85. Recognizing the fact that utility service has become a necessity for safety and comfort in modern-day life, the overwhelming majority of courts found that a continuation of utility service qualified for a "property interest worthy of protection."

¹⁸ 14 USC § 1561. Article 1, Second sentence of the 14th Amendment applies to Virgin Islands: No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

86. It is well settled that the operations of government-owned and operated public utility concerns, such as gas, electric and water companies, constitute state action under the Civil Rights Act.
87. Where any person is deprived of a property interest, due process requires notice and a meaningful opportunity to be heard.
88. The phrase "any person" has been interpreted to include natural persons, such as individuals, and legal persons such, as business entities; thus, corporations and companies are entitled to Fourteenth Amendment due process protections as well.
89. As of May 2021, the average electricity rate per kWh in the United States is 13.29 cents. The highest in the US is 33.36 cents per kWh in Hawaii.¹⁹ As of June 2021, Virgin Islands residents are paying three times the national average. (\$.43 per kWh for residents; \$.53 for commercial kWh). Upon information and belief, WAPA has stated that it is going to need another significant rate increase.

Desperation mounts.

90. In July 2021, the PSC agreed to another WAPA request for another LEAC rate increase. Despite agreeing to the fuel increase, the PSC claims that it has not reviewed the VITOL contract because WAPA has refused to produce it.²⁰

¹⁹ <https://www.saveonenergy.com/electricity-rates/> (last visited June 15, 2021).

²⁰ <https://viconsortium.com/vi-wapa/virgin-islands-power-bills-set-to-increase-from-july-billing-as-psc-grants-wapa-leac-hike>. **The VITOL agreements have been highly controversial.** <http://www.virginislandsdailynews.com/news/psc-says-wapa-vendor->

91. If the PSC did possess this contract, it has refused to produce it to those that have asked under Virgin Islands Open Records Statute ("Sunshine" laws). The VI Inspector General apparently obtained the contract since he issued a report on or about November 27, 2021.
92. In April 2021, in what can only be described as a desperate and perhaps misguided attempt, the 34th Legislature passed two bills in an attempt to reform WAPA and protect the Virgin Islands' ratepayers. See, Bill 34-0164 and Bill 34-0021. Among other requirements, the Bills provided the PSC with fairly broad discretion and oversight of WAPA. The legislature also requires WAPA to hire a turn-around company.
93. Upon information and belief, the US Virgin Islands is now the only jurisdiction that has enacted legislation providing broad discretion of a PSC, a governmental regulatory authority, to regulate a government-owned and operated utility.
94. Governor Bryan vetoed the bills based on the separation of powers; in August 2021, the 34th Legislature over-rode the veto.

[is-stonewalling-about-19-million-in-unexplained-fees/article_36f405f8-8aaf-53bd-a1c0-10624e64e5cb.html](https://www.stthomassource.com/content/2020/02/27/testifiers-butt-heads-with-lawmakers-over-wapa-and-psc-board-criteria-changes/).

Senator Violet exclaimed that it was the worst contract ever entered into. <https://stthomassource.com/content/2020/02/27/testifiers-butt-heads-with-lawmakers-over-wapa-and-psc-board-criteria-changes/>; See also, <https://www.curacaochronicle.com/post/local/indicted-oil-trader-used-curacao-bank-to-funnel-bribes-in-ecuadorian-money-laundering-case/> (bribes in Caribbean).

95. Although now enacted, the laws have not been implemented. As Governor Bryan pointed out, these two bills are unfunded mandates; Fitch Ratings analysts have also opined that the requirements may result in loan defaults as WAPA is teetering on insolvency.²¹
96. The PSC is totally dependent on WAPA to fund its operations. As of May 2021, WAPA ceased all payments to the PSC and the PSC has claimed it is no longer or very soon to be non-operational. In November, the PSC announced that it would not approve WAPA's rate increase unless WAPA paid the PSC its \$800,000 "assessment fee."²² Apparently, WAPA paid the PSC's demand for the \$800,000 "assessment" since it was reported on or about November 28, 2021 that the PSC approved WAPA's rate increase request.
97. The Virgin Islands residents are hostage to an unreliable power system, WAPA's dysfunctional billing system and WAPA's often-criticized customer service division whose representatives have been described in many corners of the community as unprofessional, belligerent with customers and, at times, outright rude.²³

²¹ <https://www.vi.gov/fitch-says-possibility-of-additional-oversight-on-wapa-board-creates-doubt-that-keeps-utilitys-bond-rate-downgraded/> (last visited 11/30/2021).

²² https://www.virginislandsdailynews.com/news/psc-grills-wapa-for-hours-over-unpaid-assessments-spiraling-energy-costs/article_03ec5804-24be-5a23-895a-49e9f6930b23.html (last visited 11/30/2021).

²³ <https://viconsortium.com/vi-wapa/virgin-islands-wapa-leadership-shakeup-takes-hold-as-rhymer-resigns-and-hedrington-is-set-to-leave-kupfer-whose-planned-exit-was-march-10-has-gone-on-leave-through-his-last-day;>

98. The VI Legislature amended Title 30, Section 123 and added section (c) to provide WAPA's customers with due process.²⁴ This law has never been implemented by WAPA and/or the PSC.
99. WAPA has failed to provide notice reasonably calculated to apprise its customers of the availability of any procedure under Section 123(c) and failed to afford them an opportunity to present their complaint(s) to a designated employee empowered to review disputed bills and rectify error.
100. WAPA's termination procedures violate due process through inadequate notice and a lack of formalized procedures to resolve customer complaints. Additionally, the PSC has never provided the ratepayers with notice and implemented formalized procedures to resolve customer complaints.
101. On May 5, 2020, the VI Legislature passed Act 8297, codified at 30 V.I.C. § 127, prohibiting WAPA from back-billing its customers more than 1 month due to faulty or defective meters. The statute places the burden on WAPA to

²⁴ "(c) In addition to the powers granted in subsection (a), the Commission shall have the power to investigate and resolve all customer disputes over billing and complaints about service, including complaints filed pursuant to the Virgin Islands Ratepayers' Bill of Rights established in section 1a of this title, filed against any public utility, including the Virgin Islands Water and Power Authority. Rate payers must first attempt to resolve the dispute directly with the public utility. A rate payer may present a dispute to the Public Services Commission for resolution only after the public utility and the ratepayer have failed to resolve the dispute in a manner satisfactory to the ratepayer.

demonstrate the meter(s) are actually read. *Id.* at subsection (b). Neither WAPA nor the PSC has enforced this law.

102. After the February 2021 Legislative hearing, WAPA advertised for meter readers without disclosing why meter readers are needed after spending \$16+ million dollars on the Tantalus/Itron AMI "smart grid" system.

103. Recently, WAPA officials admitted that approximately 12,000 meters do not function. *See, fn. 13.* Upon information and belief, this figure is highly understated.

104. Procedural due process requires the government to implement and enforce laws by following fair procedures that apply equally to everyone.

105. WAPA applies arbitrary, capricious, and informal rules to bill collection and electricity termination. Similar to its bills, WAPA makes up the rules up along the way and allows the politically adept to stack up huge WAPA bills without disconnection.

106. Thus, the Tantalus/Itron AMI "smart grid" system's wildly inaccurate billing and WAPA's arbitrary collection and termination policies qualify for a violation of both the substantive and procedural due process clause.

107. The WAPA Defendants have recklessly deprived its customers of these interests under color of law.

108. WAPA has collected unlawful debts resulting from utility bills not based on actual usage, and continues to collect these unlawful debts, from its customers without recourse as alleged above, constituting a deprivation of

their property interests without due process of law and disconnects service if the bills are not paid.

WHEREFORE, the Plaintiffs/Qui Tam Relators respectfully requests this Court exercise jurisdiction over this cause and over the parties to this action,

WHEREFORE, the Plaintiffs/Qui Tam Relators also request affirmative injunctive relief, including but not limited to entering an order that WAPA must physically read the meters on a monthly basis; that WAPA alert its customers and provide the exact date when their particular meter will be read each month; and, that WAPA's customers may elect to use Analog meters, if they so choose, at no extra monthly cost. The Plaintiffs/Qui Tam Relators request any other equitable relief as just and costs pursuant to 42 U.S.C. §1988 and all other applicable laws.

WHEREFORE, the Plaintiffs/Qui Tam Relators also seek additional affirmative injunctive relief including an order that none of the HUD grant monies or any other federal funds be used to pour millions into the Tantalus "smart grid" system or any other "smart grid" system. The Plaintiffs/Qui Tam Relators respectfully request that this issue should be subject to full public disclosure regarding the risk/benefit analysis and based on an economic feasibility study and then only after the public/community/ratepayers have a say.

WHEREFORE, WAPA has failed to implement internal control structures and procedures to avoid waste, theft, conflicts of interest, etc.,

the Plaintiffs/Qui Tam Relators also seek affirmative injunctive relief including an order instructing WAPA's individual defendants to "open the books" of WAPA and to post all expenditures and contracts on a website in "real time" for the Virgin Islands residents and ratepayers to review. WAPA is the Achilles Heel of the US Virgin Islands; the WAPA Defendants have operated without accountability for far too long to the detriment of the Territory and the people of the US Virgin Islands.

**COUNT II
(FALSE CLAIMS ACT)**

109. Plaintiffs/Qui Tam Relators reallege all the proceeding paragraphs as if the same were fully set forth herein.
110. The Companies that install the AMI "smart grid" system do so at the expense of taxpayers and/or ratepayers. Generally, there is significant federal government monies involved through government loans and government grants.
111. The claimed expected benefits of deploying the Tantalus/Itron AMI "smart grid" system included providing WAPA's customers the ability to monitor their actual energy consumption to save money, and to reduce WAPA's labor costs by terminating meter readers.
112. The Tantalus/Itron AMI "smart grid" system "roll-out" is yet another large-scale public infrastructure project delivered well over budget which failed and

continues to fail to deliver the expected benefits and Defendants knew it when they sold it to the WAPA.²⁵

113. The Defendants designed, manufactured, and sold the Tantalus/Itron AMI "smart grid" system and/or a component thereof, which was installed into the US Virgin Islands electrical grid, knowing that the system was not functional and/or compatible with the Virgin Islands' infrastructure. Upon information and belief, some of the Tantalus/Itron "smart grid" system components were already outdated.

114. Defendant Tantalus, Defendant Itron, and Defendant John Does sold an integrated product; they installed or caused to be installed the Tantalus/Itron "smart grid" system into over 50,000 Virgin Islands' homes and businesses.

115. Defendants Tantalus and Itron made false statements in marketing the alleged AMI "smart grid" system to Virgin Islands' residents and businesses, when it claimed:

- a) The Tantalus/Itron AMI "smart grid" system will save consumers money and benefit consumers;
- b) That WAPA's Customers could monitor their own energy usage in real-time allowing customers to exercise more control over their usage and feel confident that their bills were accurate;
- c) The new Tantalus/Itron AMI "smart grid" system will be used to create bills that will accurately reflect actual consumption;
- d) Defendants Tantalus and Itron guaranteed 100% coverage of the three-island service territory²⁶; and,

²⁵ <http://www.nickhunn.com/gb-smart-metering-no-longer-financially-viable/>

e) That the life of the Tantalus/Itron AMI "smart grid" system was fifteen (15) years.

116. The Defendants made the above positive statements without stating the risks of installing the Tantalus/Itron AMI "smart grid" system in order to avoid public critique; these statements also justified WAPA's application for a \$13 million-dollar federal loan, when Defendant Tantalus and Defendant Itron knew or had reason to know the above statements were false. Tantalus and Itron also knew the project would never be financially viable and would fail before the \$13 million-dollar federal loan was satisfied in twenty (20) years.
117. Although 1100 pages of documents have been obtained via FOIA, the contractual exhibits to the Tantalus contract, which contain the bulk of the substantive terms, have never been produced to the VI Legislature despite repeated requests. It was impossible to obtain specifics from the federal government via FOIA because the field agents did not download the substantive materials because they claimed they were too voluminous. The USDA RD agents finally and reluctantly explained that they no longer have access to these website materials (i.e. contract exhibits and incorporated documents).
118. Defendant Tantalus, WAPA Defendants, and John Does 1-10 have violated the United States FALSE CLAIMS ACT.

119. In addition to WAPA's ratepayers being subjected to fraudulent billing, WAPA still owes the federal government approximately \$11 million dollars on the USDA RD loan for a system that is not functional and that Tantalus falsely represented had a 15-year life. WAPA is teetering on the brink of financial collapse due to mismanagement, negligence and potential wrong-doing. It is highly unlikely that this \$11 million debt can be repaid.
120. Defendant Tantalus also hired WAPA's Executive Director, Hugo Hodge, as its Caribbean VP within 6 months of Hodge leaving WAPA under a cloud.
121. Defendant Tantalus and Defendant Itron provided invoices to WAPA, who then provided them to the USDA RD to obtain approval for the release of federal funds. These invoices were factually false because there are monies claimed due and owing for the alleged Tantalus/Itron AMI "smart grid" system for services not performed and AMI equipment not installed as contracted for. The invoices submitted to the USDA RD were also legally false for failing to comply with a precondition to payment for which compliance was expressly and/or implicitly certified. The Tantalus/Itron AMI "smart grid" system was non-functional, non-compatible, and not economically feasible for the US Virgin Islands.

The Relators seek, through this action, to recover statutory damages and civil penalties arising from the false or fraudulent records, statements and/or claims that Defendant Tantalus, Defendant Itron and Defendant John Does knowingly made or caused to be made in connection with their scheme to sell

a non-functional AMI "smart grid" system resulting in Virgin Islands residents scammed out of hundreds of thousands of dollars -- and funded by federal funds. The costs of Defendants' chicanery should not be borne on the backs of the Virgin Islands people (ratepayers). Senior citizens should not have to choose between electricity and other necessities, including but not limited to food.

**COUNT III
(DUTY TO WARN OF CATASTROPHIC RISK)**

122. Plaintiffs/Qui Tam Relators reallege all the proceeding paragraphs as if the same were fully set forth herein.
123. With revenue growth predicted to soar in the "smart grid" industry as a result of a huge federal stimulus package, Defendant Tantalus sought capital investment. The leader was Redpoint Ventures, a major investor, with offices in Menlo Park, CA, Los Angeles and Shanghai, China. Defendant Tantalus is recognized as a market leader in the "smart grid" industry.
124. Defendant Itron is described as a "global powerhouse" and also claims a huge market share of the industry; Itron is as close to the the definition of a monopoly in aspects of the "smart grid" industry as it gets.²⁷
125. Defendant Tantalus, Defendant Itron and Defendant John Does 1-10 have engaged in the business of manufacturing, designing, selling and/or otherwise

²⁷ <https://www.fool.com/investing/2021/03/13/3-stocks-building-the-next-generation-energy-grid/>

distributing a defective product ("smart grid" system) and/or a component or components thereof to WAPA.

126. The above Defendants' actions have exposed the US Virgin Islands people and possibly the continental United States to catastrophic consequences due to the lack of grid security.
127. The above market leader Defendants are in the best position to prevent harm from defects in an AMI "smart grid" system.
128. Ethical security researchers agree that the corporate secrecy surrounding smart meters and the "smart grid" systems discourages them from probing for vulnerabilities, which makes the public less safe.
129. As Defendant Tantalus, Defendant Itron, and Defendant John Does was, were and are well aware, the US Virgin Islands is saddled with an aging infrastructure, overwhelming debt and are isolated from escape routes in a long-term (over two weeks) electrical power grid blackout. As Virgin Islanders are well aware, the effects of a long-term power grid blackout would be catastrophic.
130. Even if Defendant Tantalus and Defendant Itron's representations about the functionality were true, which they were not, national security, since the US Virgin Islands jurisdiction is a United States border, is paramount to any technological billing convenience (no meter readers), which is the marketing ploy used by Defendant Tantalus and Defendant Itron when it sold this "smart

grid" system with a shelf-life of 5-7 years to WAPA to the tune of \$16+ million dollars. Meter readers are far more economical.

131. Both Defendant Tantalus and Defendant Itron participated in the selection and integration of the Defendant John Does' components and services into the design of the Tantalus/Itron AMI "smart grid" system.
132. The Defendants had a legal duty to make a product, the Tantalus/Itron AMI "smart grid" system, that was and is reasonably safe.cqw
133. The Defendants knowingly sold a product that has created a dangerous condition for those living and operating businesses in the US Virgin Islands.
134. The Defendants do not, did not and have not warned WAPA's customers of the extraordinary risk of cyber-attack and the resulting consequences that would affect VI residents and businesses – or the exponential increase of foreseeable criminal conduct.
135. The "smart grid" metering industry been debased to the point where it exalts the benefits to the supplier manufacturers without v
136. The problem of insecure devices and networks, such as sold, designed, and manufactured by the "smart grid" Defendants, is precisely the kind of issue that strict products liability was designed to solve.
137. Pre-event, before the "smart grid" integrated system is installed and before any cybersecurity threat has occurred, the private industry is clearly the responsible party for implementing the protective measures to ensure the security of the US Virgin Islands people.

138. The dangerous propensities of the Tantalus/Itron AMI "smart grid" system is not obvious to the regular US Virgin Islands consumer/ratepayer.
139. The catastrophic risk of harm is sufficiently great to justify the burden of providing a warning to the uninformed public of the risk of cyber-attack and its catastrophic effects so that they may take measures to protect themselves, their families and their businesses.

Wherefore, addition to the refund of the \$16+ million dollars, the Plaintiffs/Qui Tam Relators request damages/costs to cover analog meters replacement with installation for those Virgin Islands ratepayers who so choose, and any other equitable relief as deemed appropriate.

COUNT IV
(Design and/or Manufacturing Defect)

140. Plaintiffs/Qui Tam Relators reallege all the proceeding paragraphs as if the same were fully set forth herein.
141. There is no "one-size-fits-all" in the smart grid industry.
142. Defendant Tantalus, Defendant Itron and Defendant John Does defectively designed and/or manufactured an AMI "smart grid" system for the US Virgin Islands that is and was not functional, not reliable, and not fit for its use in the US Virgin Islands.
143. Defendant Tantalus, Defendant Itron and Defendant John Does are in a superior position than the innocent ratepayers of the US Virgin Islands to guard against such defects.

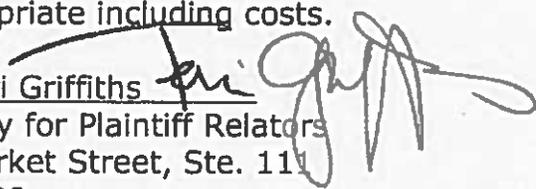
144. There are no standards in the AMI "smart grid" industry that protect the consumer ratepayer. The *ad hoc* standards, if any, implemented by Defendant Tantalus and Defendant Itron, the companies that have and continue to design such systems, are inadequate and unreasonable given the extraordinary dangers and risk of loss. The dangers of the Tantalus/Itron AMI "smart grid" system far exceed the benefits (*e.g.* \$16 million divided by 5 years equal many, many meter readers).
145. The defective manufacturing and/or design of the Tantalus/Itron AMI "smart grid" system has caused damages (\$16+ million) and including but not limited to the creation an unreasonably dangerous cyber-attack vulnerability, which was foreseeable to the Defendants.

Wherefore, despite their superior position, the Defendants took no action to alleviate the burden of WAPA's customers; the Defendant Tantalus hired WAPA's Executive Director, Hugo Hodge, effectively buying secrecy that the Tantalus/Itron "smart grid" was not functioning as promised. The Virgin Islands people and ratepayers deserve far better and should not be forced to should the burden of the debt incurred by WAPA for this fiasco. Exalting monopolistic companies' profits while undermining security, which is foreseeable, is unconscionable. In addition to foreseeable skyrocketing crime, the Virgin Islands people have experienced long periods of "grid down" events due to hurricanes. The Virgin Islands' people are well aware of the after

effects as they have read the page after page of obituaries for months on end of their friends and neighbors whose health failed from agonizing stress.

Wherefore, in addition to the refund of the \$16+ million dollars, statutory damages, the Plaintiffs/Qui Tam Relators demand replacement costs for analog meters and their installation for any VI ratepayer who so chooses, any other equitable relief as deemed appropriate including costs.

Date: December 1, 2021


/s/ Terri Griffiths
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St. Augustine, FL 32095
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(340) 998-8830
(904) 547-0699

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the

KH, RV and JD, Relators

Plaintiff(s)

v.

Virgin Islands Water & Power Authority, Tantalus Systems Holding, Inc., Itron, Inc. Noel Hodge, and Anthony Thomas, John Does 1-10,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Gretchen Shappert, US Attorney
U.S. Attorney's Office
Federal Building & U.S. Courthouse
Room 260
5500 Veterans Drive
St. Thomas, VI 00802-6424

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Terri Griffiths
701 Market Street, Ste. 111
Box 1029
St. Augustine, FL 32095
Terri@Griffiths-Law.com
(340) 998-8830; (904) 547-0699

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. PLAINTIFFS (Plaintiff, Real Party, and Juror)</p> <p>(b) County of Residence of First Listed Plaintiff <u>St. Thomas</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) <u>Terri Griffiths</u> Attorney for Plaintiff Relators 701 Market Street, Ste. 111</p>	<p>DEFENDANTS</p> <p>County of Residence of First Listed Defendant <u>St. Thomas</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known) <u>unknown</u></p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff, and One Box for Defendant)</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<p>PERSONAL INJURY</p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157
			<p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input checked="" type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<p>REAL PROPERTY</p> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<p>CIVIL RIGHTS</p> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<p>PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <p>Other:</p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<p>SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
		<p>IMMIGRATION</p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation - Transfer 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
32 USC 3729

Brief description of cause:
The Defendants sold, manufactured, designed a smart grid system that is non-functional financed with federal funds.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMANDS** CHECK YES only if demanded in complaint: **JURY DEMAND:** Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE: _____ DOCKET NUMBER: _____

DATE: December 3, 2021

SIGNATURE OF ATTORNEY OF RECORD: 

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG JUDGE

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

KH, RV and JD, Relators

Plaintiff(s)

v.

Virgin Islands Water & Power Authority, Tantalus Systems Holding, Inc., Itron, Inc. Noel Hodge, and Anthony Thomas, John Does 1-10,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Merrick B. Garland, Esq.
United States Attorney General
US Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530-0001

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Terri Griffiths
701 Market Street, Ste. 111
Box 1029
St. Augustine, FL 32095
Terri@Griffiths-Law.com
(340) 998-8830; (904) 547-0699

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify):* _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: