



# SPECIAL REPORT

## Jerri and OPEIU vs Accenture

### Challenge under Canadian Charter of Rights and Freedoms to stop giant's takeover of BC public resources

In British Columbia, Office and Professional Employees' International Union (OPEIU) Local 378 and President Jerri New have launched a legal challenge under Canada's Charter of Rights and Freedoms to the provincial government's Bills 10 and 39 that privatize and break up the crown corporation, BC Hydro. The case will be heard in the BC Supreme Court from December 15-19, 2003.

New and OPEIU are leading the fight to maintain BC control of the electricity system and stop the provincial government from handing over our power resources to foreign corporations. The sell offs may look like easy money for BC coffers, a PR windfall for this election period, but the Bermuda-based Accenture Corporation now controls a major part of our goose that lays golden eggs.

Consumer experience in other parts of Canada and the United States shows that this kind of break up of a public asset impairs economic and policy benefits flowing from decades of vertical integration— such as when BC Hydro was intact. Allowing private sector control of the power business has led to supply and price nightmares everywhere else it has happened.

The union's Charter challenge is also a response to BC Liberal's attempts to hide secret negotiations with Bermuda-based Accenture Corporation and the privatization of a third of BC Hydro from the BC Utilities Commission (BCUC) and the courts.

Leo McGrady, Q.C., is the union's legal counsel handling the Charter challenge. "We're concerned because BCUC claims that due to the nature of the Accenture agreement, they have no jurisdiction, yet at the same time we have been denied access to the full agreement.

"It's unheard of for an administrative tribunal like BCUC to decide on the disposition of a multi million-dollar public asset without key documents being disclosed publicly," said

McGrady during an interview with *OPEIU 378 News* in the South Granville Street offices of McGrady, Baugh & Whyte.

In the challenge, New and OPEIU contend that the provincial government's legislation (Bills 10 and 39) tries to put itself above the existing common law by cutting out the BCUC, the Labour Relations Board and the courts from any potential review of the break up of BC Hydro. The legislation also lets them break OPEIU and IBEW collective agreements. [International Brotherhood of Electrical Workers (IBEW) is the other, smaller union at BC Hydro.]

More legislation introduced November 4, 2003, titled Bill 85 *BC Hydro Public Power Legacy and Heritage Contract Act* seems to bolster the government's claims they are not selling core assets until you read the actual language in the Act. The new legislation confirms that assets are not to be disposed of unless they no longer fit a purpose, are no longer used or useful, or are to be replaced with assets that fulfill a similar function. Ample loopholes.

The government continues to deny they are breaking up BC Hydro. Wags note it leaves Premier Gordon Campbell's policies smacking a



*Doug Hill, OPEIU 378 Vice-President says BC Hydro's plan for private companies to build generating plants will mean higher bills for power consumers.*



*OPEIU 378 President Jerri New hopes the Charter challenge will allow OPEIU to continue its application to BC Utilities Commission requesting full public hearings into the Accenture agreement.*

little of Bill Clinton's famous denial (albeit paraphrased), "I did not touch that woman's core assets."

Doug Hill, OPEIU 378 Vice-President for BC Hydro who works as a Protection Technologist at Burrard Thermal Power Plant, notes that as part of the BC government's energy policy, BC Hydro will no longer be constructing new generating plants. This work will be done by the private sector and will result in higher electricity costs. Private companies have to make a profit for their shareholders so consumers will have to pay higher prices.

Hill says Hydro's plan currently underway for private companies to build generating plants will mean higher bills for consumers. "As time passes, public sector generation will become a smaller percentage of total electricity generation in BC. Therefore, the cheaper power base will be eroded."

If successful, the Charter challenge will allow OPEIU to continue its application in front of the BC Utilities Commission (BCUC) requesting full public hearings into the Accenture agreement. A similar court challenge in Ontario forced the

Conservative government to abandon their plans to privatize Ontario Hydro.

McGrady says that once the BC Supreme Court hears the case in mid-December, he expects a judgment within three months. ■

## Saving BC Hydro

by Paula Stromberg

It's a Monday morning in August 2003 and the smell of wood smoke on her hair and clothes is disturbing, unbelievable almost. I'm reviewing a draft affidavit with OPEIU 378 President Jerri New for her petition to the BC Supreme Court seeking an injunction to stop the privatization, deregulation and break up of BC Hydro.

Daily operations at Office and Professional Employees' International Union (OPEIU) are often hectic but today they threaten to slide off the edge into mayhem. So far, four union staff members have stopped at our union president's office door saying they need to speak with her urgently. Contract negotiations involving unprecedented concession demands from the Insurance Corporation of BC are threatening to implode, with the risk that 4500 union members will be forced off the job. Karen Caston, New's unflappable executive assistant, has come by twice with a sheaf of papers and a quizzical look, as in "what shall I tell the heavy breathers from the ad agency waiting for your signature on this emergency rush job?" New's desk and meeting table are covered with foot deep piles of urgent material and her cell phone is blinking. With people circling her office like jetliners stacked by air traffic control, we persevere in discussing her draft affidavit that, so far, is 10 pages long.

About 4 o'clock this morning, New left her home in the Southern Interior where residents are on one-hour fire evacuation alert and has driven through the soot-grey, terri-

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## Saving BC Hydro

fied communities in the Okanagan down to her union office in Burnaby.

Fires are raging through the BC Interior, destroying forests, homes and business and threatening thousands more.

New, along with thousands of BC residents, faces the threatened loss of her family assets yet here she sits in the OPEIU office, smelling of smoke from a fire that is poised to wipe out her home, methodically working on legal arguments for her unique challenge under the Canadian Charter of Rights and Freedoms that are part of a bid to save OPEIU members' jobs and stop the break-up of BC Hydro. The plot line strikes a familiar chord: Jerri and OPEIU versus the BC government and BC Hydro. Accenture, a Goliath-sized multinational corporation casts a long, menacing shadow over the case.

"This is all a little nerve-wracking," she allows when I express astonishment that she can concentrate on drafting an affidavit while waiting for her neighbour's possible call to let her know her house is about to be burned to the ground.

New can't stay home. She feels a sense of outrage on behalf of workers at BC Hydro and residents of British Columbia. In February and May 2003, the BC Liberal government had passed various pieces of legislation to break up BC Hydro that attempt to remove the rights of citizens, consumers and employees by over-ruling the BC Utilities Commission, the BC Labour Relations Board, the courts and the collective agreements between workers and BC Hydro.

"We're trying to maintain BC control of our electricity system. BC Liberals want to put our power resources in the hands of foreign corporations and export markets," said New.

In her affidavit, New also contends that Bill 39, the BC government's far-reaching legislation to break up BC Hydro by separating its transmission functions and turning them over to a newly-incorporated company, stripped away provisions in employees' collective agreements.

"This legislation broke our contract as well as provisions of the



*Standing with BC Federation of Labour President Jim Sinclair (left) and legal counsel Leo McGrady (at right), OPEIU 378 President Jerri New talks with reporters at one of the many press conferences held in the ongoing campaign to halt the break up of BC Hydro. OPEIU has lobbied city and municipal politicians throughout BC, launched a public campaign and website at [www.HandsoffHydro.com](http://www.HandsoffHydro.com), held rallies and public meetings, paid for radio and newspaper ads, produced a video and affiliated with BC Citizens for Public Power, another organization that is fighting the break-up of BC Hydro.*

Labour Relations Code. It stops the BC Utilities Commission from properly regulating the new BC Transmission Corporation, and it even attempts to stop the courts from ruling on the legitimacy of its actions."

Section 3 of Bill 39 and Section 2 of Bill 10 both include the phrase "despite the common law," a clear attempt to exempt the legislation from challenges in court, New said. Bill 39 also says BC Hydro and the BC Transmission Corporation "are deemed to have all approvals, authorizations, permits, certificates, exemption or order that, under the Utilities Commission Act, are or may be required." New says that section means the BC Utilities Commission cannot scrutinize or question the creation of the Transmission Corporation.

In an amendment to the Utilities Commission Act, the provincial government gives cabinet the power to specify "the factors, criteria and guidelines that the commission must or must not use in regulating, and fixing rates for, the transmission corporation." New says the Liberal cabinet has ensured that the BC Transmission Corporation is completely beyond public scrutiny or the review of the BCUC.

A 42-year legacy of affordable, environmentally friendly, publicly owned power started by former Premier W.A.C. Bennett was destroyed in

a matter of days with this new legislation.

New believes the only hope of reversing the privatization and break up of BC Hydro now rests with the courts. That's why she launched the BC Supreme Court action that says Bill 39 and Bill 10 violate the Canadian Charter of Rights and Freedoms.

The main objection is that provincial wealth, the power utility owned by the people of British Columbia, is being turned over to a multinational corporation without any opportunity for public discussion.

The fight is not new. Ever since the trend towards privatization became a darling of world governments (think of Britain in the 1980s) OPEIU has consistently opposed any break up of BC Hydro and the concomitant loss of good-paying jobs. In 1986, OPEIU began educating its own membership by running articles in the union newspaper about the perils of privatization and deregulation. One of the first stories, "The BC public owns BC Hydro— Why give it away to just a few shareholders?" ran in the November/December 1987 issue of the union's newspaper.

Increased awareness brought the first membership protest in May 1988, when BC Hydro workers waylaid then-BC Hydro Chairman Larry

Bell and executives at a meeting at Vancouver's Terminal City Club to present briefs on the pitfalls of contracting out and privatization.

Here is a smattering of the union's on-going battles to keep BC Hydro intact: In 1990, the union filed a grievance over privatization of BC Hydro's subsidiary Westech Information Systems, the computer information system at BC Hydro.

In 1991, the union published provincial election candidate responses to questions on contracting out and privatization so members could be well informed before voting.

In 1993, the union was successful in lobbying the BC NDP government to have Hydro's subsidiary, Western Integrated Technologies repatriated into BC Hydro.

In 1996, the union set up a new Political Action Fund to defend members' jobs and established a Job Protection Fund to fight initiatives such as deregulation and privatization. For more than 15 years, OPEIU public campaigns, ad blitzes and backroom lobbying have successfully warded off most dismemberment of the crown corporation.

All along, the message has been the same: OPEIU believes breaking up BC Hydro could have hazardous consequences for members' job se-

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curity as well as for power consumers and the BC economy.

These days, however, provincial Liberals are dismissive of those concerns and continue to turn over parts of BC Hydro to private industry. The Bermuda-based multi-national corporation Accenture took over one-third of BC Hydro operations in April 2003 while, in a stupendous example of Orwellian Newspeak, the provincial government vehemently denies it is breaking up or selling core assets at BC Hydro. Public skepticism in many quarters continues to grow.

"Members at BC Hydro are sad that their loyalty and pride in the company have not been valued. BC Hydro is part of our province's culture, our wealth and is a symbol of what makes us Canadian. We are turning our assets over to a multi-national company that feels no responsibility to the BC public or our way of life," said New.

That is why OPEIU has made every effort to halt the break up of BC Hydro. Its public campaign, Hands Off Hydro, has stirred thousands of electricity consumers and local politicians including three former BC premiers Bill Vander Zalm, Dave Barrett and Mike Harcourt to denounce any privatization or break up.

Thanks to OPEIU lobbying efforts over the past 18 months, the Union of BC Municipalities and city

councils around the province have passed resolutions against selling off BC Hydro.

A video about the campaign to save public power was distributed to union activists, TV stations and chambers of commerce. A union website [www.HandsOffHydro.com](http://www.HandsOffHydro.com) encourages people to email their MLA or the premier.

New has given countless media interviews about the power concerns. OPEIU has held media conferences and public rallies to raise public awareness about the threat to BC Hydro. OPEIU newspaper and radio ads, posters, buttons and public meetings have notched up polls tracking BC public understanding that selling off provincial assets is bad for the economy.

OPEIU has affiliated with BC Citizens for Public Power, another organization that is fighting the privatization, deregulation and break up of BC Hydro through the courts. On September 4, 2002, BC Citizens for Public Power filed what could become the largest class action suit in Canadian history. They are seeking an injunction to prevent the provincial government and BC Hydro from selling or transferring the crown corporation's assets.

OPEIU has encouraged members as well as the public to visit the website [www.citizensforpublicpower.ca](http://www.citizensforpublicpower.ca) to support the class action lawsuit to stop the ongoing break up of the power corporation

"If the BC Supreme Court certifies this lawsuit as a class action, then every BC Hydro customer, residential, institutional or commercial, may be included—more than 1.5 million customers," said legal counsel Leo McGrady, Q.C. who is handling both the lawsuit and the Charter challenge.

The lawsuit is a claim against both the province and BC Hydro for breach of fiduciary duty and for unjust enrichment and it is also against BC Hydro for breach of contract and breach of the Hydro and Power Authority Act, R.S.B.C. 1996, c. 212.

"The suit charges that the government is breaking a trust with the people of BC, many of whom have invested in this corporation for more than a generation—by breaking it up and privatizing key functions," said New who serves on the Executive Board of the BC Citizens for Public Power.

More than 60,000 signatures from BC residents and OPEIU members support the BC Citizens for Public Power's lawsuit.

The quick march towards the sell-off of crown resources began when Gordon Campbell's Liberals were elected in May 2001. They announced a review of all government and Crown corporations against a backdrop of widespread deregulation in the United States. In the US, electrical power had been made a commodity, similar to the way water has been deemed a commodity. In many states, some power utilities abandoned vertically integrated formats (similar to BC Hydro) and specialized in specific areas such as transmission or generation. BC Hydro found itself under immense pressure from these corporations to throw themselves on the North American power grid while adhering to US regulations.

Individual customer information has also become another commodity to be merged with other multi-national databases and sold for a profit. Corporations eye BC Hydro as a juicy piece of meat to be swallowed up by their profit-making machinery.

In the summer of 2001, former BC Hydro Chairman Larry Bell returned to BC Hydro as CEO. (In November 2003, Bell stepped down as CEO while remaining Chair of the Board of Directors). Under Bell's leadership, BC Hydro claimed that they had to go along with these global business trends. BC Hydro examined its operations to see what they could contract out.

Accenture won the bid to create a joint venture to service the utility's administrative chores and, on April 1, 2003, the newly-minted Accenture Business Services (ABS) took over 1600 employees and yearly revenue of about \$140 million from BC Hydro and became one of the top five non-resource companies in the province. On its website at [www.accenture.com](http://www.accenture.com), the company positions itself as a leading proponent of an entirely new industry—providing outsourcing services to utilities all over North America and other parts of the world.

Accenture, the world's largest computer and business consultant, hires thousands of employees in developing countries like India, which have a pool of cheap, skilled labour.

The company's employees in Mumbai and Bangalore, India's main business and technology centres, include consultants who advise clients on computer systems and networks, software programmers and call centre workers who answer queries from clients' customers. Accenture's Indian workforce doubled in 2002 and continues to grow. In BC, on the other hand, layoffs and growing unemployment are a headline staple.

This is part of globalization, the process of corporate expansion across borders. Corporations are accelerating plans to 'offshore' thousands of high-end, white collar desk jobs to developing countries where education levels are rising but wages are up to one-tenth of Canadian ones.

"BC Hydro is part of our province's culture, a symbol of what makes us Canadian," says New.

"We are not against globalization or free trade (trade between countries without tariffs), but we do oppose unfettered globalization where corporations are able to move capital, labour, technology without regard to the effect it may have on jobs, our environment or our economy. We must at least have a public process. The people of the province have to be consulted, not shut out of any decisions about our future."

We are worried for OPEIU members at BC Hydro and concerned for BC's future. Canadian collectivism is being overrun by US multi-national corporations.

In December 2002, for example, ABS sent a letter to BC Hydro employees telling them they had just a week to decide their future careers—whether to bump back into the Hydro system, leave, or move to ABS.

New, described as "usually calm and meticulous" by reporter Tony Wanless in *BC Business* magazine July 2003 edition, was somewhat angry. "Accenture's demand was insulting to dedicated BC Hydro employees who have contributed to the corporation's success over several decades. That move symbolized Accenture's high-speed changing of values."

Still smelling faintly of smoke, she concluded, "This Charter challenge is our last resort. We have to ask the courts to halt the break up—provincial assets shouldn't be turned over to private corporations. We can't accept these giveaways without public consultation." ■



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BC Hydro!**

[www.handsoffhydro.com](http://www.handsoffhydro.com)



# SPECIAL REPORT

## Profiting from details of our personal lives

Big Brother is making a profit on-line from our thoughts, habits and personal details. Just check the Internet at [www.Accenture.com](http://www.Accenture.com) and follow the links on 'data mining.' Super computer databases now merge and manipulate thousands of details about our personal lives and companies sell those individual profiles.

Brandishing the rationale of national security concerns, multi national corporations not subject to federal privacy legislation merge data bases to track what you and I read, what we buy, our bank records, where we travel, who we want contacted in an emergency, how much electricity we use, our history of welfare use or insurance claims, census information and they also profile our neighbours, friends and associates.

This is not the stuff of science fiction or wacky conspiracy theorists. You can see for yourself online that foreign corporations use the details of our personal lives as a commodity and advertise their data mining wares on the Internet.

Check [www2.seisint.com](http://www2.seisint.com) or [www.securityfocus.com/news/7036](http://www.securityfocus.com/news/7036). See how much information a mere 25 cents buys about people's lives at [www accurint.com](http://www accurint.com).

In an October 8, 2003 column in the *Cowichan News-Leader* newspaper, investigative reporter Don Maroc raised concerns about multinational corporation Accenture's mounting control over Canadian citizens' personal information.

After being contacted by *OPEIU 378 News*, Maroc said he would be 'honoured' for our union newspaper to run excerpts from his column about the Bermuda-based multinational.

According to Maroc's research that is readily verified on the multinational's corporate websites, Accenture has done contract work for at least three Canadian government's departments. Citizenship and Immigration Canada (CIC) has awarded Accenture a \$4.8 million contract to design a global case management system.

Each year the CIC processes about 1.3 million visitor, citizen, immigrant and sponsorship applica-

tions, 320,000 employment and student authorizations and 40,000 refugee claims. Facilitating information sharing with key stakeholders, Accenture now 'safeguards' all that personal information.

Hired also to redesign Ontario's welfare programs and information systems, Accenture now owns complete personal and financial histories for all families who have applied for welfare in Ontario. Here in BC, Accenture Business Services handles BC Hydro's customer services, financial services, human resources, information technology and procurement services. Complete files for every customer in BC are now in Accenture data banks.

Accenture has recently bought into Seisint, a massive US data bank corporation. Seisint of Boca Raton, Florida is a data-mining company connected with a project, dubbed Matrix, created to track would-be terrorists and criminal fugitives.

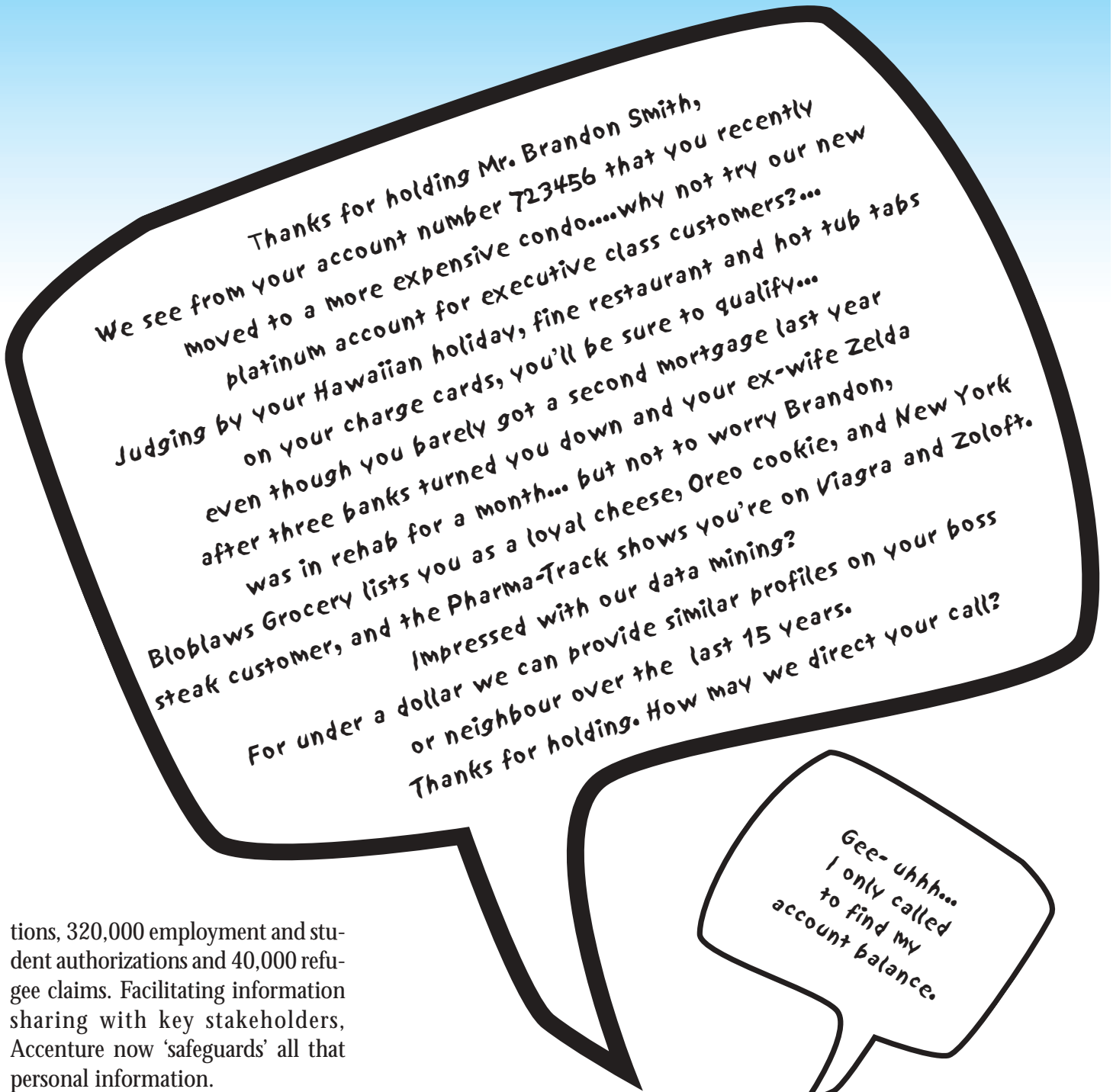
(As a side note, the Canadian

government has recently signed trade agreements that allow the national census to be contracted out to a US corporation. According to the Council of Canadians, Lockheed Martin, one of the world's largest weapons manufacturers, will soon have access to confidential census information about Canadians.)

Now back to Accenture and Seisint: The Matrix database cross-references driving records and restricted police files with billions of pieces of public and private data, including credit and property records. Accenture's eDemocracy Services runs the US government's voter registration and electronic voting machine management services for local, state and national governments.

If you have a name, phone number and 25 cents, Seisint's Accurint system can get you any American's Social Security number, date of birth, addresses for the past 15 years, property ownership and contact information for relatives, associates and neighbours.

As Maroc points out, complete files for every Hydro customer in BC are now in the Accenture data banks. That means data mining multinationals could extract the same information on a large chunk of Canada's population. ■



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