

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1273

Date of Decision: 14 March 2019

#### Complaint

The customer's claim is that he is disadvantaged by being billed on a Smart Meter variable rate rather than on a fixed rate annual charge. The customer is seeking for the company to change his billing method that he should be billed on a fixed rate annual charge rather than on the Smart Meter variable rate.

#### Defence

The company submits that in accordance with the Water Industry Act 1991 and the Water Industry Regulations 1999 the use of the Smart Meter for billing purposes is lawful and justified. Furthermore, a full explanation of why the use of the Smart Meter for billing purposes is lawful and justified in this instance has been given. Therefore, the company is not liable for any damages in this respect. Furthermore, the company has provided a good level of service at all times throughout its dialogue with the customer and therefore the company is not liable for any damages in this respect. The company has not made any offers of settlement.

#### Findings

I am satisfied the evidence shows the company did not fail to provide its services to the customer to the standard to be reasonably expected regarding the use of the Smart Meter for billing purposes. The reasons and evidence provided by the customer are not sufficient to justify his claim that he should be billed on a fixed rate annual charge rather than on the Smart Meter variable rate.

#### Outcome

The company does not need to take any further action.

- The customer must reply by 11 April 2019 to accept or reject this decision.

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- Furthermore, the company asserts it has provided a good level of service at all times throughout its dialogue with the customer and the customer has already been compensated for any alleged failings. Therefore, the company submits it is not liable for any further damages in this respect.

### How is a WATRS decision reached?

In reaching my decision, I have considered two key issues. These are:

1. Whether the company failed to provide its services to the customer to the standard to be reasonably expected by the average person.
2. Whether or not the customer has suffered any financial loss or other disadvantage as a result of a failing by the company.

In order for the customer's claim against the company to succeed, the evidence available to the adjudicator must show on a balance of probabilities the company has failed to provide its services to the standard one would reasonably expect and as a result of this failure the customer has suffered some loss or detriment. If no such failure or loss is shown, the company will not be liable.

I have carefully considered all of the evidence provided. If I have not referred to a particular document or matter specifically, this does not mean that I have not considered it in reaching my decision.

### How was this decision reached?

1. The dispute centres on whether the customer is disadvantaged by being billed on a metered basis rather than on a fixed rate annual charge. The company states the Government has published guiding principles that state that where a water company is in an area designated as an area of serious water stress, it must consider compulsory metering.
2. Within its defence, the company has provided OFWAT's guidance on the Water Meters and pointed out the relevant sections of the Water Industry Act 1991 and the Water Industry Regulations 1999.
3. As stated within page 19 of OFWAT's guidance water companies in high stressed areas can compulsorily meter their customers. As shown within the various documents put forward in evidence by the company most of south-east and eastern England is classed as being seriously

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water stressed. The customer's property falls within one of these areas classed as water stressed.

4. The company states as the customer's property falls within an area classed as water stressed, the company is entitled under section 162 of the Water Industry Act 1991 to install a Smart Meter on a compulsory basis and therefore set a tariff based on volume of water used. The evidence shows the company installed a Smart Meter at the customer's property in August 2016 as part of its Progressive Metering Programme. The evidence shows as part of the company's Progressive Metering Programme at the end of the customer's two-year comparison period in August 2018 his fixed charge account was closed, and a new metered account was opened for him. A letter of confirmation was sent to the customer on 5 September 2018 confirming this.
5. From the evidence put forward, in my view, the company has shown the Water Industry Act 1991, as amended, allows it to implement a programme for setting tariffs based on the volume of water used in areas designated to be areas of serious water stress. Furthermore, the company states it has a duty to treat all its customers fairly and under the Progressive Metering Programme, therefore, reverting to a fixed charge is not an option. Having reviewed the evidence in full, I must find the company has implemented the compulsory metering scheme fully in accordance with the applicable legislation. It has also received specific permission from the relevant Government department. In view of this, I find the policy to install water meters and use them for billing purposes has been properly implemented. I have no authority to direct the company to make an exception for the customer. As the customer's property falls within an area classed as water stressed, the company can insist on fitting a water meter and it is correct to switch the customer to a metered tariff two years after his smart meter was fitted.
6. I acknowledge the various arguments put forward by the customer that he cannot realistically reduce his water consumption and that he was being disadvantaged by being billed on a variable tariff based on water usage. The company's submissions show these issues were fully discussed with the customer and the customer could apply to use the company's WaterSure or WaterSure Plus scheme to help reduce any bills. The evidence shows on 14 September 2018 the company received from the customer a completed application form for the company's WaterSure scheme; however, it was found the customer due to his circumstances was not eligible for the WaterSure scheme and therefore he should apply for the company's WaterSure Plus scheme. However, I find these issues do not affect the legitimacy of the compulsory

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metering scheme, the requirement for the customer's property to be fitted with a water meter, or the change of tariff from a fixed annual tariff to variable tariff based on water usage.

7. I am therefore satisfied the company has a clear legislative basis for implementing a scheme of compulsory metering and I find the customer has not proved that the company should use the fixed tariff system rather than the tariff system based on the Smart Meter readings. Accordingly, I find I am unable to uphold the customer's claim to change the tariff system based on the Smart Meter readings currently used at the customer's property. Therefore, the customer's claim is unable to succeed.
8. In light of the above, I find the customer has not proven the company failed to provide its services to the customer to the standard to be reasonably expected by the average person with regard to the tariff system based on the Smart Meter readings, nor has the customer proved the company failed to provide services to the standard to be reasonably expected when investigating these issues. Furthermore, I am satisfied there have been no failings with regard to customer service as the company has provided a good level of service throughout its dialogue with the customer.

#### **Outcome**

The company does not need to take any further action.

#### **What happens next?**

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 11 April 2019 to accept or reject this decision.
- When you tell WATRS that you accept or reject the decision, the company will be notified of this. The case will be closed.
- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision.

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**Mark Ledger FCI Arb  
Adjudicator**

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