

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0947

Date of Decision: 24 October 2018

Complaint

The customer's claim is the company has installed a Smart Meter at her property without her permission and that she should continue to be billed on a fixed rate annual charge rather than on the Smart Meter variable rate once her two-year comparison period expires. The customer is seeking to be continued to be billed on a fixed rate annual charge and removal of the Smart Meter.

Defence

The company submits that in accordance with the Water Industry Act 1991 and the Water Industry Regulations 1999 the installation of a Smart Meter and the use of the Smart Meter for billing purposes is lawful and justified. Furthermore, a full explanation of the why a Smart Meter is lawful and justified in this instance has been given. Therefore, the company is not liable for any damages in this respect. The company has not made any further 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 installation and use of the Smart Meter for billing purposes. The reasons and evidence provided by the customer are not sufficient to justify her claim the Smart Meter was installed without permission and that she should be billed once the two-year comparison period expires on a fixed rate annual charge rather than on the Smart Meter variable rate.

Outcome

The company needs to take no following further action.

- The customer must reply by 21 November 2018 to accept or reject this decision.

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Party Details

Customer: []

Company: []

Case Outline

The customer's complaint is that:

- The company has installed a Smart Meter at her premises without her permission and intends to change her current fixed tariff to that of a variable tariff based on the data collected by the Smart Meter.
- The customer is seeking the company to remove the installed Smart Meter.
- The customer is seeking to remain on her current fixed tariff once the two-year comparison period expires.

The company's response is that:

- The company's position is that in accordance with the Water Industry Act 1991 and the Water Industry Regulations 1999 the installation of a Smart Meter and the use of the Smart Meter for billing purposes is lawful and justified. As the Government has determined the [] Water region to be an area of serious water stress the restrictions set out in section 144B of the Water Industry Act 1991 do not apply and therefore the company is entitled under section 162 of the Water Industry Act 1991 to install Smart Meters on a compulsory basis and charge the customer using a variable tariff once her two-year comparison period expires.
- Furthermore, a full explanation of the why a Smart Meter is lawful and justified in this instance has been given within its dialog with the customer.
- Accordingly, the company is not compelled to remove the Smart Meter or prevent its use to charge the customer using a variable tariff once the two-year comparison period expires.

How is a WATRS decision reached?

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

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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 company should have installed a Smart Meter at the customer's property and whether once the two-year consultation period expires the customer should be moved to metering rather than her current fixed rate charge. The company states the Government has published guiding principles which 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 pages 54-83 of the CCWater documents most of south-east and eastern England is classed as being seriously water stressed. The customer's property falls within one of these areas classed as water stressed.
4. The company states that 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. 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

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of water used in areas designated to be areas of serious water stress. I am also satisfied the company was required to consider compulsory metering under the Government guiding principles. The company obtained approved permission from the Government in June 2012 to implement its Final Water Resources Management Plan which included its compulsory metering policy.

5. Accordingly, 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 has been properly implemented. I have no authority to direct the company 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.
6. I acknowledge the various arguments put forward by the customer in relation to the impact of leakages and the company's various water saving devices information being misleading. The company's submissions show these issues were fully discussed with the customer and that the customer could apply to use the company's [] scheme if metered and the [] Plus scheme if not to help reduce any bills. The evidence shows that on 22 February 2018 the company supplied the customer with the application forms for both schemes. However, these issues do not affect the legitimacy of the compulsory 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 that the customer has not proved that the company has unlawfully installed a Smart Meter and nor has the customer proved that the company should continue to 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 remove or not activate the Smart Meter installed on 12 July 2017 and thereby changing the fixed tariff system 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 installation and intended activation of the Smart Meter, 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

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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 21 November 2018 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.



**Mark Ledger FCI Arb
Adjudicator**