

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1000

Date of Decision: 8 November 2018

Complaint

The customer is unhappy with his wastewater charges. The company charges more than other companies and the customer would like to have the choice of water provider. The customer has water butts on his property in order to reduce wastewater charges. The wastewater charge is greater than the charge for fresh water.

Defence

The company submits that, under legislation, household customers do not have a choice of water provider. Its charges are set in a scheme of charges, agreed with Ofwat. The customer receives a surface water rebate in relation to the water butts. The customer will be entitled to a non-return to sewer allowance only where he can demonstrate that he returns to the sewer consistently significantly less water than he receives. The company denies that the customer is entitled to the remedies requested.

Findings

Water is provided by regional monopoly suppliers in accordance with the Government position that the cost and complexity of the regulation required to open up the market further would outweigh any benefits to consumers. The customer has no choice but to receive services from the company. The scheme of charges is agreed with Ofwat, taking into consideration factors unique to each water company. One company's charges may therefore differ from another. The customer receives the correct surface water rebate. There is no evidence that the customer returns significantly less water to the sewer than the 92.5% average used by the company.

Outcome

The company does not need to take any further action.

The customer must reply by 6 December 2018 to accept or reject this decision.

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1000

Date of Decision: 8 November 2018

Party Details

Customer: []

Company: [].

Case Outline

The customer's complaint is that:

- The customer is unhappy with his sewerage charges. The company charges more than other water companies for its services. The charge to take away wastewater is £20.00 more than the charge for metered water received. The customer has six 220 litre water butts on his property to avoid wastewater charges.
- The customer requests the choice of who provides his water, an extra discount in relation to the six 220 litre water butts, and a £50.00 reduction in the cost of wastewater.

The company's response is that:

- The company states that, under current legislation, household customers do not have the ability to change their water or wastewater supplier. The company's charges are approved by the regulator, Ofwat, and set out within its Charges Scheme. The company's wastewater charges consist of standing charges for wastewater, surface water drainage, and highway drainage, and a volume based wastewater charge. The charges are adjusted annually and reflect the different circumstances that a company has to deal with when delivering its services, largely relating to the geographical features of the area. The wastewater standing charge is payable by every customer for the provision of wastewater charges. The surface water drainage charge has not been paid by the customer since April 2014 when he demonstrated that the surface water all drained into large water butts in his garden. The highway drainage charge is a contribution towards the cost of removing wastewater from roads and footpaths; there is no provision for a

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rebate or a reduction to this charge. The volume based wastewater charge is based on the water use measured on the water meter, with an allowance of 7.5% for water that would not be returned to the sewer. This is based on the average use by the company's customers. A customer may apply for a Non-Return to Sewer allowance and this will be awarded where a customer can show that the volume of water returned to the sewer is "consistently significantly less" than 92.5% of the volume of water supplied. The company would not apply a non-return to sewer allowance until the customer provided evidence that the volume of water discharged by the customer was consistently less than 92.5%. The water butts collect surface water from the customer's guttering and are relevant to the issue of a surface water drainage rebate only. The company denies that the customer is entitled to the redress requested.

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 that the company has failed to provide its services to the standard one would reasonably expect and that 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 customer requests the choice of who provides his water services, enabling him to go to a cheaper supplier. At present, household customers do not have the choice of water provider. The water market was opened up for non-household customers only in April 2017. Under current legislation, household customers do not have a choice of supplier. It would require

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legislative change for household customers to receive this choice and, in the absence of such legislative change, the Water Redress Scheme has no power to provide the customer with a choice of water supplier. Accordingly, this decision must be made with reference to the existing legislative position, which is that the company is the sole provider of water and wastewater services in the customer's area.

2. The customer is disputing the wastewater charges payable to the company. I am mindful that the Water Industry Act 1991 requires the company to make a scheme of charges. The charges scheme is set by the company each year, but it must be agreed with Ofwat and is subject to any limits or requirements set by Ofwat. The charges scheme is set by each company, having regard to matters common to every water company and unique to each specific company, such as the precise topography of their market area, the number of customers, population density, and any specific challenges such as water hardship. For this reason, the charges scheme set by one company and agreed with Ofwat may differ significantly from a charges scheme set by another company.
3. I find that the review of the charges scheme is a regulatory function within the sole remit of Ofwat and that the Water Redress Scheme therefore has no power to review the fairness and reasonableness of the scheme in general or the charges therein. I am therefore only able to determine if the customer has been charged correctly in accordance with the relevant charges scheme.
4. The customer is disputing the wastewater charges. I find that there are four components to the wastewater charges. These are: the standing charge for the provision of wastewater services; the standing charge for surface water drainage; the standing charge for highways drainage; and, a volumetric charge for wastewater returned to the sewer.
5. In respect of the wastewater standing charge, I find that this is payable where the customer has a connection to the sewer and is therefore able to discharge water back into the company's sewers. I am satisfied that the customer's property is connected to the sewers and that this charge will therefore be payable.
6. In respect of the surface water standing charge, this will not be payable where rainwater does not drain into the company's sewers. This will be the case where a property has soakaways or,

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as in the customer's case, a customer has taken measures to collect all rainwater in water butts so that it does not drain into the sewers.

7. The customer contacted the company in July 2014 in respect of the surface water drainage connection and the company agreed that all surface water now drained into the water butts. The company backdated the rebate of the surface water standing charge to the start of the billing year, 1 April 2014. I am satisfied that the customer has not been paying this standing charge since 1 April 2014.
8. In respect of the standing charge for highway drainage, I find that this is payable by every customer in relation to the removal of water from roads and footpaths. It is clear that this is a charge shared evenly amongst all customers as it relates to drainage on public areas, benefitting all customers living in that area. I am satisfied that this charge will be payable in all instances.
9. Finally, in respect of the volumetric wastewater charge, the company calculates the volume based on the meter reading for water used. The volume of wastewater is taken to be 92.5% of the clean water served to a property. This is based on the average use by customers and includes an allowance for water that is not returned to the sewer, such as that used on the garden.
10. The customer submits that it is unreasonable to place the onus on the customer to dispute the volumetric wastewater charge, given the far greater resources of the company. I am mindful that the company has a significant number of customers, the majority of which will use water in line with the above averages. The company will not be aware of how the water is actually used on a property unless it is specifically advised of this. The company also does not measure the wastewater discharged from each property.
11. I am not persuaded that it would be reasonable to require the company to measure the wastewater from properties. Whilst clean water is easily measureable, wastewater will typically include toilet flushings and may contain other detritus. A sewer pipe will also typically have a far greater volume than a water pipe in order to accommodate other items in addition to wastewater. I am not persuaded that it is feasible for the company to measure the volume of wastewater discharged by a given property. I am satisfied that calculating the wastewater

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returned to the sewer by reference to the water supplied to the property is the most straightforward and cost-effective method of calculating wastewater usage.

12. I am also mindful that, where a customer's use of water differs significantly from the average, they will typically be able to evidence this. I note that the Consumer Council for Water suggested that an allowance may be granted where a customer is filling a large pond, however this would not appear to meet the requirement that the water returned to the sewer is 'consistently significantly' less than the fresh water supplied. I am mindful that this requirement may be met in circumstances where a customer pays for wastewater to be taken off site and treated privately, or where he has on-site facilities for treating grey water, such as from showers, meaning only wastewater from certain facilities, such as toilets, would be returned to the sewer. In either case, the customer would be able to evidence that a significant amount of wastewater is not being returned to the sewer by showing where the water is treated.
13. In the customer's case, he submits that he discharges less wastewater than the 92.5% average as "all of my washing up water goes to the garden for my plants and vegetables". I am mindful that the customer must be able to demonstrate that he discharges a volume of water that is consistently and significantly less than the 92.5% average; I accept that it is necessary for the customer to demonstrate that the returned wastewater is significantly less than average in order to warrant the additional expense in calculating an allowance for the wastewater charge.
14. In this case, the customer's submissions indicate that it is only washing up water that he does not return to the sewer. The water collected in the water butts is rain water and does not form part of the volumetric clean water measurement. I am mindful that washing up water will be a relatively small part of a customer's water use. There is no suggestion that the customer has any system in place for, for example, removing water used when showering or washing clothes, so that it is not returned to the sewer.
15. I find no evidence or submission within the customer's claim or comments that indicates that he consistently and significantly returns less than 92.5% of the clean water provided to him to the sewer. As the wastewater charge is linked to the clean water that the customer actually uses, the charge will always be linked to his actual use and, in the absence of evidence demonstrating that he does not return wastewater to the sewer in an average proportion, I am satisfied that the company has been correctly charging for this.

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16. The customer notes that the charge for wastewater is greater than the charge for fresh water. As above, I am not able to review the scheme of charges. However, I note that the wastewater charge includes the treatment of water so it can be returned to rivers and seas. In addition, as the company serves a coastal area, it will have higher costs associated with removing bacteria and viruses from the water to make it safe to discharge at sea, thereby improving the quality of bathing waters. For these reasons, the charge for wastewater may be higher than both the cost of freshwater, and wastewater charges applied by other water companies.
17. Finally, I note that the customer, in the claim form, queries how much more his wastewater bill would be if it were not for the allowance relating to the water butts. As above, the water butts are relevant to the standing charge for surface water drainage only. This charged is a fixed charge, and the customer will therefore be able to identify the saving made each year by referring to the surface water drainage standing charge within the company's latest scheme of charges. The company confirms that, in the year 2016/17, this charge was £23.00; the customer has therefore saved this sum by ensuring the surface water is collected in water butts.
18. For the reasons given above, I am satisfied that the customer has correctly received the rebate of the surface water standing charge, but that there is no evidence demonstrating that the customer is entitled to any further reduction of wastewater charges. I am satisfied that the company has, at all times, acted in the manner expected of a reasonable water supplier. I therefore find that the customer is not entitled to the requested remedies.

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 6 December 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 then 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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Alison Dablin, LLM, MSc, MCI Arb

Adjudicator

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