

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/AW/1066

Date of Decision: 18 March 2019

Complaint

The customer switched to a meter in July 2018 and requested that the company backdate his charges based on this measured method of charging, as oppose to the Rateable Value of the property previously applied that had resulted in higher charges. The company backdated his charges to August 2016; however, it refused to backdate them any further. The customer asserts that he enquired with the company about a water meter in 2006 and therefore requests that the company backdate his measured charges to this date.

Defence

The company asserts that it fitted a meter at the customer's property in 2012 as part of its enhanced metering program but, in accordance with the Water Industry Act 1991, it cannot raise measured charges until such time as the customer chooses to pay measured charges and serves notice. It received the requisite Measured Charges Notice from the customer in July 2018 and duly processed the switching process. Despite no obligation to backdate charges, it has backdated measured charges to 10 August 2016; this is over and above its usual policy and as stated above, it is not under any obligation, legal or otherwise, to backdate measured charges. The company made no settlement offer.

Findings

The company switched the customer's account to measured charges on its receipt of a Measured Charges Notice from the customer in July 2018. It also backdated the customer's measured charges to 10 August 2016 as a gesture; this is beyond its usual policy to backdate charges for one month. There is no evidence that the customer requested a water meter prior to 2018 despite the company sending letters to properties in the customer's area in 2012 when it had installed meters to advise of the option of switching to a meter. The company has dealt with the customer's requests to switch to measured charges and to backdate measured charges in accordance with its legal obligations and policies. As such, the company has provided its service to a reasonably expected standard.

Outcome

The company is not required to taken any further action.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.



The customer must reply by 15 April 2019 to accept or reject this decision.

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Date of Decision: 18 March 2019

Party Details

Customer: []

Company: [].

Case Outline

The customer's complaint is that:

- He has lived at his property: [] ('the Property') since 1979.
- During 2012, the company fitted a water meter as part of its 'enhanced metering program' and invited the customer to switch to metered charges; however, he did not take up the opportunity to switch to measured charges at this time.
- In 2018, he contacted the company and enquired about switching to a meter and opted for measured charges. The company processed the 'switching' transaction, agreeing to backdate measured charges to August 2016; this resulted in a significant credit being applied to his water account.
- He asked the company to backdate the measures charges to 2006 and provided evidence that he enquired with the company about a meter at this time. The company refused his request.
- The customer requests that the company backdate the measured charges further to 2006.

The company's response is that:

- The customer's water bills were based on the unmeasured method of charging until 2018; these are calculated based on the Rateable Value of a property and are a set annual charge regardless of consumption, or how many days / people occupy a property.
- Currently, the only other method of calculating water services charges is measured charges based on actual water consumption. Measured charges will only apply when a meter has been installed and it has been served with a Measured Charges Notice. In accordance with Section

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144A of the Water Industry Act 1991 (the Act), where charges are raised on an unmeasured basis, a customer may, at any time, give it a notice requiring it to fix charges by reference to volume (i.e. install a meter), this is known as a Measured Charges Notice.

- It has a statutory duty to comply with a Measured Charges Notice served upon it; however, measured charges do not apply until such time as it is served with a Measured Charges Notice.
- In accordance with Section 162 of the Act, it has the power to install meters on its assets, although it cannot raise measured charges until such time as the customer chooses to pay measured charges and serves notice.
- On 2 October 2012, as part of its enhanced metering programme, it installed water meters at every property in the customer's area, including at the Property where meter serial number 12M400[] was installed.
- Each property affected by the enhanced meter programme received a letter from it together with a welcome pack, which included an authorisation form for the customer to sign and return requesting measured charges to become applicable.
- It confirms that it did not receive a signed authorisation form from the customer in 2012 when the meter was installed or at all until 2018, confirming that he wished his charges to be raised on a measured basis; as such, charges at the Property continued to be raised on an unmeasured basis.
- On 8 February 2018, the customer made contact regarding an offer of a refund should he choose to be charged on the meter. It responded and attempted to contact the customer by telephone on numerous occasions to no avail; however, it put the customer's account on hold.
- On 17 July 2018 the customer confirmed that he wished for his charges to be raised on a measured basis, thereby serving it with a Measured Charges Notice. As such, it complied with the measured charges notice and measured charges became applicable.
- Although there is no legal obligation or otherwise on it to backdate measured charges, it ran a campaign in late 2017 to try to get customers who would save money by being on a meter to switch. During the campaign it offered to backdate charges to the penultimate true meter reading.
- Although the customer did not take up the offer of switching to measured charges during the campaign, it agreed that even though the campaign had finished and its usual policy was applicable, on this occasion it would back date metered charges to 10 August 2016, which is the customer's penultimate meter reading. This generated a credit.
- The customer now requires his measured charges to be backdated to 2006, when he alleges he enquired about a meter.

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- It denies that it had received any communication from the customer in 2006 or at all prior to 2 February 2018 regarding the installation of a meter at the Property. The customer admits in an e-mail dated 6 August 2018 that he was not aware of meters in 2006. Further, the customer has failed to provide any evidence to substantiate his allegations.
- It has backdated measured charges over and above its usual policy and as stated above, there is no legal obligation or otherwise on it to backdate measured charges. Unmeasured charges were applicable until it is served with a measured charges notice, which it has a duty to comply with and has done.

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. I remind the parties that adjudication is an evidence-based process and it is for the customer to show that the company has not provided its services to the standard that would reasonably be expected of it.
2. The dispute relates to the company's refusal to backdate the customer's measured charges to 2006, as sought by the customer.

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3. The company has supplied evidence in support of its stated position including a document entitled 'Timeline', its contact with the customer during 2018, generic correspondence sent regarding switching to a water meter and a copy of the Act. I also acknowledge receipt of the Consumer Council for Water (CCW) document bundle.
4. The company has set out the circumstances when it can raise measured charges. Whilst it may install water meter on its assets, in light of Section 144A of the Act, I accept it cannot apply measured charges until such time a customer gives it a notice (via a Measured Charges Notice) requiring it to fix charges by reference to volume. On a water company's receipt of a notice, I find that it is obliged to install a water meter (unless it is unable to do so) and transfer the method of charging to measured. For the sake of clarification, I acknowledge that other circumstances exist where a water company can raise measured charges. These include if there is a change in the occupation of the premises or if the customer resides in an area of serious water stress (as confirmed by the Department of Environment, Food and Rural Affairs). However, I find that such circumstances are not relevant in the customer's case.
5. Based on the evidence, I accept that as part of its enhanced metering programme, the company installed water meters at properties (usually on the boundary) in the customer's area in 2012, including at the Property, whereby meter serial number 12M400[] was installed in October 2012. As above, I am satisfied that the Act permits the company to do this. I find that at this time, the company sent the customer a letter advising him of the installation and informing him of his option to switch to measured charging; I accept this has been evidenced by the company at Attachment 31 of Defence. However, in light of the evidence, I accept that the customer only contacted the company on 8 February 2018 when he emailed to enquire about the refund offered if he switched to a metered bill. It was following an exchange of communications between the parties that the company subsequently processed a switch on the customer's account after it received a completed Measured Charges Notice from the customer.
6. I acknowledge that, in the meantime, the customer had asked the company about how far it would backdate metered charges and the company explained that its usually policy is to backdate charges covering a period of one month but explained that, towards the end of 2017, it ran a campaign to try to get customers that would save by being on a meter to

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switch, offering to backdate charges to the penultimate reading. It confirmed that, for the customer, this was 10 August 2016. I find that it agreed to backdate the customer's charges to 10 August 2016 as per its campaign but explained it would be unable to backdate the charges any further as the customer had not requested measured bills previously.

7. I acknowledge that on 27 July 2018, the customer emailed the company and included a scanned copy of a bill from the company dated 21 August 2006 with the customer's handwritten note "*telephoned [] Water about a comparison of costs on a metered charge*". The customer claimed that this evidence demonstrated he had enquired with the company about getting a water meter in 2006 and accordingly requested that the measured charges were backdated further to 2006.
8. In its response to the customer dated 3 August 2018, I find that the company explained that it did not accept this to be evidence of the customer having asked for a meter stating: "*If you had asked for a meter at that time you would have been sent an application form and, once we received this back from you, we would have raised the job to fit the meter*". Having reviewed all of the evidence, whilst the evidence suggests that the customer may have enquired with the company about metered charges in or around 2006, I find that there is a lack of evidence to establish that he requested a meter at this time or at any time prior to 2018. Further, the company has highlighted that in his subsequent email to the company dated 6 August 2018, the customer stated that he was not aware of meters in 2006. I accept this evidence supports the company's position that the customer had not requested a meter.
9. Therefore, in light of the above findings, it is clear that, with the exception of certain circumstances that do not apply to the customer's case, the company may only raise measured charges when requested by a customer via a Measured Charges Notice and that until such time the correct method of charging for water bills is unmeasured (calculated based on the Rateable Value of a property and are a set annual charge regardless of consumption, or how many days / people occupy a property). Further, I accept that once a customer switches to measured charges, the company is not under any obligation to backdate them beyond the timeframe stated within its policy, which, in the company's case is one month. Based on the evidence, I am satisfied that the company switched the customer's account to measured charges on its receipt of a Measured Charges Notice in July 2018. Further, in accordance with the offer in a campaign it ran in 2017 to backdate charges to the

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penultimate bill, it backdated the customer's measured charges to 10 August 2016; a timeframe that I find is beyond its usual one month period and that generated a credit that the company applied to the customer's account (leaving his account £295.51 in credit as at 18 July 2018).

10. Therefore, I am satisfied that the company dealt with the customer's requests to switch to measured charges and to backdate measured charges in accordance with its legal obligations and polices. As such, I find that the company has provided its services to a reasonably expected standard and I find that no basis has been shown, legal or otherwise, to establish that the company is required to backdate the customer's measured charges beyond 10 August 2016. As a consequence, the claim cannot succeed.

Outcome

The company is not required to taken any further action.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 15 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 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.



A. Jennings-Mitchell, Ba (Hons), DipLaw, PgDip (Legal Practice), MCI Arb

Adjudicator

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