

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0782

Date of Decision: 19 November 2018

Complaint

The customer submits that RST Water (RST) is his fresh water provider and XYZ Water (XYZ) is his wastewater service provider. The complaint has been brought against RST, as RST act as billing agent on behalf of XYZ. A decision was taken between XYZ and RST to align each of the company's billing practices and introduce 'One Bill.' As a result of this merger, he is no longer billed in arrears for his wastewater charges, charges are now raised in advance. This has effectively doubled the amount of standing charges he is required to pay up-front. He was also charged twice for his wastewater on his first bill, sent in October 2017, after the change was implemented. He was not consulted about the change nor was he given any warning that there would be an increase in his bill following the implementation. This change is of no benefit to him or other consumers but is a substantial financial windfall to the benefit of the companies involved. He requests that *"either, [XYZ] put in place some clear, demonstrable and measurable benefits, valued at £14m and which are independently verifiable, for the 464,994 customers who had to pay the double standing charge in 2017 due to the change imposed to the period of payment, or, return this £14m windfall to these customers."*

Defence

The company submits that previously the two companies have billed the charges separately. In addition, XYZ used to bill standing charges in arrears whilst RST billed their customers standing charges in advance. However, the decision was made after discussions with customers and stakeholders, to work together to introduce 'One Bill'. It notified customers on behalf of XYZ that they would now be billed for both standing charges in advance rather than in arrears. There is no change to the amount of the charge, just to the timing of the payment. XYZ will not be making any additional revenue in the long term as the amount of the charges is the same, just now billed at a different time. To address the customer's concerns regarding any financial impact the change may have, it removed the £30.25 standing charge billed in advance as a gesture of goodwill. No offer of settlement was made.

Findings

For the purposes of this decision my remit under WATRS is to determine the issues between the customer and the company. Any submissions about other customers and requests for redress in relation to other customers cannot be considered. Whether a company bills its customers in advance or in arrears for

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its services is a business matter for the company alone to determine. Under WATRS Rule 3.5, the Scheme cannot be used to adjudicate disputes relating to commercial practices. The evidence shows that the customer was notified in advance that both standing charges for it and XYZ would be billed in advance. However, the company did not explain that the first bill after the change was implemented would contain two standing charges for wastewater: the charge for arrears for the period 14 April 2017 to 30 September 2017, and the charge in advance for the period 1 October 2017 to 31 March 2018. The company failed to provide its services to the customer to the standard to be reasonably expected by the average person in this regard. However, the company has removed the £30.25 standing charge billed in October 2017 for advance charges. As the standing charge has already been removed, I therefore only direct that an authorised representative of the company provide the customer with a written apology.

Outcome

The company needs to take the following action:

I direct that an authorised representative of the company provide the customer with a written apology for the failure to warn the customer that his first bill after implementation of the change would contain two standing charges for wastewater.

The customer must reply by 17 December 2018 to accept or reject this decision.

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Party Details

Customer: []

Company: [].

Case Outline

The customer's complaint is that:

- RST Water (RST) supplies his fresh water. Whilst XYZ Water (XYZ) are his wastewater service provider. The complaint has been brought against RST, as RST act as billing agent on behalf of XYZ.
- The complaint concerns a change in the company's billing practices. A decision was taken between XYZ and RST to align each of the company's billing practices and introduce 'One Bill'.
- As a result of this merger, he is no longer billed in arrears for his wastewater charges. Charges are now raised in advance.
- This has effectively doubled the amount of standing charges he is required to pay up-front.
- He was also charged twice for his wastewater on his first bill after implementation of the change, sent in October 2017.
- He was not consulted about the change nor was he given any warning that there would be an increase in his bill following the implementation.
- This change is of no benefit to him or other consumers but is a substantial financial windfall to the benefit of the companies involved. This windfall will be some £14,000,000.00 based on a second standing charge of £30.25 in their October 2017 bills across 464,994 customers. The customer states that it cannot be right that a company operating in a monopoly market can take such action without warning and/or approval from independent authorities in the water industry, without there being some compensatory benefit to their customers who are impacted.

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- The customer requests that *“either [XYZ] put in place some clear, demonstrable and measurable benefits, valued at £14m and which are independently verifiable, for the 464,994 customers who had to pay the double standing charge in 2017 due to the change imposed to the period of payment, or return this £14m windfall to these customers.”*

The company’s response is that:

- RST is a fresh water provider and XYZ is a wastewater provider. Previously the two companies have billed the charges for these services separately. In addition, XYZ used to bill standing charges in arrears whilst RST billed their customers standing charges in advance.
- However, the decision to work together to introduce ‘One Bill’ was made after discussions with customers and stakeholders. This meant XYZ’s charges would be included on its bill and customers would only receive one bill from it for both charges from both companies.
- It notified customers on behalf of XYZ that they would now be billed for both standing charges in advance rather than in arrears.
- The customer was notified by letter on 10 September 2017 that he would receive his ‘One Bill’ in October. In this letter the process of ‘One Bill’ was explained and FAQs were also included to explain the changes. The FAQs covered the subject of standing charges and how this would affect customers.
- It has confirmed to the customer that it consulted with the Consumer Council for Water (CCW) and XYZ had consulted with OFWAT about the change.
- There is no change to the amount of the charge, just to the timing of the payment. To clarify, the customer has not been double charged; just the time that he is billed for his XYZ standing charges will now be in advance rather than in arrears. XYZ will not be making any additional revenue in the long term as the amount of the charges is the same, just billed at a different time now.
- To address the customer’s concerns regarding any financial impact the change may have it offered to set up a payment plan to spread the cost out. Furthermore, it later removed the £30.25 standing charge so the customer did not have to experience any financial impact for this first upfront standing charge.
- It believes that it has responded appropriately to the customer’s complaints.

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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?

Third parties

1. I acknowledge the customer's submissions about other customers. However, for the purposes of this decision my remit under WATRS is to determine the issues between the customer and the company. Any submissions about other customers and requests for redress in relation to other customers cannot be considered under this adjudication.

The company's billing practices

2. I must also remind the parties that the scope of the Scheme is set out under WATRS Rule 3.3.
3. I acknowledge the customer's concerns about the company's billing practices, and that the change has doubled the amount of standing charges he is required to pay upfront. I also acknowledge the customer's concerns that XYZ has received a significant windfall/cash injection by billing customers in advance. However, whether a company bills its customers in advance or in arrears for its services is a business matter for the company alone to determine. Under

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WATRS Rule 3.5, the Scheme cannot be used to adjudicate disputes relating to commercial practices.

4. No evidence has been submitted to this adjudication to show that the company was required to consult with this customer about the change.
5. Consequently, I acknowledge the customer's concerns and appreciate that the customer will be disappointed that I am not in a position to consider these complaints. However, it falls out of my remit to consider the customer's concerns in this regard.

Notification of the change

6. The company's letter of 10 September 2017 and FAQ document have been submitted in evidence.
7. I accept the company's submissions that the customer was notified in advance that both standing charges for it and XYZ would be billed in advance.
8. However, having considered the evidence, I am not satisfied that the company explained that the first bill following implementation of the change would contain two charges for wastewater; the charge for arrears for the period 14 April 2017 to 30 September 2017, and the charge in advance for the period 1 October 2017 to 31 March 2018. I therefore accept the customer's submissions that he was charged twice for his wastewater on his first bill without warning. I also accept the customer's submissions that on this basis, the company's assertion in its FAQ document that his bill would not increase as a result of the change was misleading.
9. I find that it would have been fair and reasonable for the company to clearly warn customers that the first bill after implementation of the charge would contain three standing charges; one for water and two for wastewater. In the absence of any evidence to show that the company did so, I find that the company failed to provide its services to the customer to the standard to be reasonably expected by the average person in this regard.

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Redress

10. The customer requests that *“either, [XYZ] put in place some clear, demonstrable and measurable benefits, valued at £14m and which are independently verifiable, for the 464,994 customers who had to pay the double standing charge in 2017 due to the change imposed to the period of payment, or, return this £14m windfall to these customers.”*
11. However, as discussed above, requests for redress in relation to other customers cannot be considered under WATRS.
12. I have found that the company failed to provide its services to the customer to the standard to be reasonably expected by not clearly warning the customer that his first bill after implementation of the change would contain two standing charges for wastewater. The company has already removed the £30.25 standing charge billed in October 2017 for advance charges. I note the customer, in his Comments to the Defence, states that the charge was not removed by the company as a goodwill gesture but in recognition of its poor response to his initial complaint. However, as the standing charge has already been removed and the detriment has been resolved, I therefore only direct that an authorised representative of the company provide the customer with a written apology for the failure to warn the customer that his first bill after implementation of the change would contain two standing charges for wastewater. I remind the parties that the evidence submitted to the adjudication must not only show that the company failed to provide its services to the customer to the standard to be reasonably expected by the average person, but it must also show that the customer has suffered some financial loss or other disadvantage as a result of a failing by the company. In the absence of any evidence submitted by the customer showing otherwise, the failure shown is not severe enough to warrant any further redress.

Outcome

The company needs to take the following action:

I direct that an authorised representative of the company provide the customer with a written apology for the failure to warn the customer that his first bill after implementation of the change would contain two standing charges for wastewater.

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What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 17 December 2018 to accept or reject this decision.
- If you choose to accept this decision, the company will have to do what I have directed within 20 working days of the date on which WATRS notifies the company that you have accepted my decision. If the company does not do what I have directed within this time limit, you should let WATRS know.
- If you choose to reject this decision, WATRS will close the case and the company will not have to do what I have directed.
- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision. WATRS will therefore close the case and the company will not have to do what I have directed.



**U Obi LLB (Hons) MCI Arb
Adjudicator**

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