

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1097

Date of Decision: 16 November 2018

Complaint

The customer submits that she does not want a smart water meter installed due to safety concerns about the radio waves they emit. She asked the company to install an analogue water meter, but it refused her request. The company initially did not inform her that the meter it planned to install was a smart meter and then it failed to provide details of its regulator when she requested this information. The customer requests that the company install an analogue water meter.

Defence

The company submits it is legally entitled to install smart meters as the use of this technology as part of its compulsory metering programme, has been approved by DEFRA. It no longer installs analogue water meters as they have been replaced by smart meters, which are more beneficial and do not pose any safety risk to human health. It has sought to address the customer's concerns and advised her of the results of the independent report it commissioned to look into the safety of smart meters. No offer of settlement has been made by the company.

Findings

Due to the customer's area being designated as in 'serious water stress', legally, the company is able to install water meters to measure customers' water usage and charge on this basis. It is also permitted to decide the type of water meter it installs. The company has reasonably sought to address the customer's concerns raised about the safety of smart meters. Further, the company was clear in its communications with the customer about its intention to install a smart meter. Therefore, the company provided its services to the customer to the standard to be reasonably expected in this regard. The company did call the customer when she had specifically requested to be contacted in writing only and it also failed to provide details of its regulator to the customer when sought, in the first instance, so this is evidence of the company failing to provide its services to a reasonable standard. However, it

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- The World Health Organisation ('WHO') classified RF radiation as possibly carcinogen. RF radiation is classified by the International Agency for Research on Cancer (IARC), as "possibly carcinogenic to humans". The company does not follow her and her family around all day to know how much radiation they are exposed to. There is a lot of information to show that smart meters are not 100% safe, her family does not want to take any risks.
- The customer requests that the company install an analogue meter, not a smart meter.

The company's response is that:

- The customer disputes its legal powers to install smart meters. It asserts that section 144B of the Water Industry Act 1991 ('the Act') restricts water undertakers' powers to require customers to pay for water on a metered basis. However, in 2007 the [] water region was designated as being an area of 'serious water stress' by the Secretary of State for the Department for Environment, Food and Rural Affairs (DEFRA), therefore the above restrictions set out in the Act do not apply and it is entitled to install meters on a compulsory basis without permission from the home owner (under section 162 of the Act). As a result, it considered the case for compulsory metering as part of its statutory Water Resource Management Plan (WRMP).
- It has a legal duty to provide a secure supply of safe and clean water to its customers and every five years it is required to produce a statutory WRMP that sets out how demand for water is balanced against the available supply over the next twenty-five years. The basic aim of a WRMP is to set out plans to secure water supplies, balanced against the cost of doing so. A key part of its 2009 WRMP was compulsory metering and the type of metering technology it could use as part of its compulsory metering programme. Its WRMP was approved by DEFRA in June 2012.
- In her email dated 12 September 2018, the customer stated she would not have a smart meter fitted due to health risks. It commissioned an independent report by WRC titled 'Review of the Possible Health Effects of Smart Water Meters Used in the [] Water Region' that concluded there is no evidence that the use of smart meters would have any adverse effects on human health as they emit a very low power radio signal every 15 seconds, transmitting a total of 17.3 seconds in every 24 hours.
- It disputes the customer's submission that it sent her a letter offering to install a water meter but did not inform her the meter would be a smart meter: its card left on 19 January 2017 and its letter of 27 January 2017 both stated "Smart Meter". It has also provided information to the customer by way of packs hand delivered informing her of its Smart Metering Programme (SMP). Each of these communications had its contact details (telephone/website) for the customer to get in touch with any questions she may have.

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- In response to the customer's request for a water meter, it has explained that, unfortunately, it is unable to fit an older style analogue meter at the customer's property as it no longer holds stocks of traditional "analogue/dumb" meters. In stating the case for compulsory metering as part of its 2009 WRMP, it included a comparison between these types of meter; Dumb Meter Reading – a standard analogue meter, which requires a meter reader to physically access it to take a reading; Automatic Meter Reading – a smart meter with a short range radio, which a meter reader can read remotely using a reading device, as long as they are within a set radius, these meters are also able to transmit to a fixed network meter reading system once set up in a particular area. This latter is the technology used in its SMP.
- It sent the customer a letter on 27 January 2017 informing her that it would be fitting a smart meter at her home soon and to contact it as it would need to book an appointment to ensure it fitted the meter to the correct supply.
- On 14 February 2017, its Smart Metering Team visited the customer's road: [] to speak to residents about its SMP. It knocked at the customer's door and spoke to a resident about its SMP and left the information pack called "Getting your Smart meter".
- It sent a further letter on 16 February 2017 informing the customer that it would soon be starting to fit smart meters in her road. It sent letters on 3 May 2018, 24 May 2018 and 12 June 2018 requesting that the customer book an appointment so that it could fit a meter to her water supply. The customer replied on 22 June 2018 and it received an email from the customer on 29 August 2018 chasing a response to her email. On 12 September 2018, it replied to the customer's email and it received two further emails from her later that day. After speaking to the customer on 19 September 2018 it emailed providing details about its compulsory SMP. Later that day the customer responded by email.
- As she was dissatisfied with its response, on 25 September 2018 it tried to call the customer to offer that her case is reviewed; however, as there was no answer, a text message was sent. It received an email from the customer the same day.
- On 26 September 2018, it sent an email to the customer confirming its final position.
- The customer's home is in a row of six and as of 26 October 2018, five of the outside stop valves (OSVs) in the customer's road have had smart meters fitted to them. By a process of elimination, the remaining OSV is presumed to be for the customer's water supply. It will be fitting a smart meter to the remaining OSV in the coming days. It still needs to make an appointment with the customer in the near future to carry out a "proof of supply". If the customer wishes, she can call 0800 009 3805 to advise of the dates she will be available for this appointment.

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The customer's Reply

- She disputes the accuracy of some of the findings in the WRC report submitted by the company. She asserts the report of the Independent Advisory Group on Non-Ionising Radiation (AGNIR) (as cited in the report) did not accurately reflect the scientific evidence and that it contained many inaccurate, incorrect and misleading statements and omitted relevant findings in its conclusions. The customer asserts that AGNIR has since been disbanded. The customer gives details of other reports and studies that support her view that smart meters are not 100% safe.

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's claim concerns the company's compulsory metering program and in particular the company's refusal to install an analogue meter as oppose to a smart meter, despite her

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concerns raised regarding the safety of these meters. The customer disputes that the company has legal powers to install a smart meter.

2. The company submits that compulsory metering is in operation in the customer's area due to the area being designated as in 'serious water stress' and compulsory metering having been a key part of its twenty-five year plan to secure water supplies, balanced against demand and the cost of doing so. It submits that a key part of its 2009 WRMP was the type of metering technology used as part of its compulsory metering programme; as result of it choosing smart meters, it no longer installs analogue meters as it does not hold any stocks of this type of meter.
3. I accept that in areas of water shortage, a water company is legally entitled to meter its customers' water usage if this policy is part of its WRMP, which has been approved by DEFRA. I am satisfied from the evidence that the customer's area has been deemed to be in 'serious water stress' by the Secretary of State for Environment and Rural Affairs and that DEFRA has approved the company's WRMP, which includes its policy on compulsory metering in order to help conserve future water supplies.
4. However, I acknowledge that the customer is not opposed to having a water meter fitted, only to having a smart meter due to safety concerns about this type of technology. The customer disputes the company's refusal to provide an analogue meter. The company has submitted its WRMP at Attachment 3 to the Defence, and, based on this evidence, I accept that its WRMP included smart meters as the preferred technology due to their perceived benefits. As mentioned above, the company's 2009 WRMP was approved by DEFRA in 2012. Therefore, I am satisfied that the company is legally entitled to use smart meters when operating its compulsory metering programme. Consequently, I find that the company's proposed installation of a smart meter and its refusal to install an analogue meter outside the customer's property, does not constitute evidence of it failing to provide its services to a reasonably expected standard.
5. Based on the parties' correspondence submitted to me, I can see the customer first raised her concerns to the company about the safety of smart meters in her email dated 12 September 2018. In its response dated 19 September 2018, the company explained to the customer both the purpose of its compulsory metering policy and the basis of its authority to operate this, including use of smart meters, as well as explaining the perceived benefits of using these types

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of meters. I find it reiterated its position in its response to the customer dated 26 September 2018. The company also confirmed that the smart meters it uses comply with UK legislation and EU standards (Radio and Telecommunications Terminal Equipment Directive) and advised that several million have been installed globally. It explained that smart meters work on a low power frequency with emission levels similar to those produced from a TV remote and also confirmed it had ran a detailed assessment of the potential health risks with its smart meters and gave details of the findings in the independent report. The company cited the conclusion in this report that smart meters are within safe limits for radio signals and pose no threat to human health. Therefore, I am satisfied that in its responses, the company addressed the customer's concerns raised and also provided additional information regarding the purpose and benefits of its SMP, including easier detection and repair of customer leaks and accurate bills based on the water used. The company has provided further details in its Defence regarding the levels of RF emitted from smart meters and compared these levels with RF emitted from other technology including a Wi-Fi router. As such, I am satisfied that the company has reasonably sought to address the customer's concerns raised about the safety of smart meters and I find no evidence of it failing to provide its services to the standard to be reasonably expected by the average person in this regard.

6. The customer submits that the company failed to initially inform her that the water meter it wished to install was a smart meter. Having reviewed all of the company's correspondence sent to the customer, including cards and information left at the customer's address since 2017, I am satisfied it was clear about its intention to install a smart meter as it specifically referenced smart metering and smart meters in its literature. However, the company's letters sent to the customer dated 24 May and 12 June 2018 asking her to make an appointment for a water meter installation did not specifically state it was a "smart" water installation. Nonetheless, as all other correspondence and publications supplied to the customer since January 2017 specifically stated "smart meter", I consider that the company did take reasonable steps to notify the customer that the meter would be a smart meter. Therefore, I find no evidence of a service failing by the company here.
7. In relation to the customer's submission that the company did not provide details of its regulator until she had asked three or four times, the customer first asked the company for details of its regulator in her email dated 12 September 2018. I accept that in its subsequent response of 19 September 2018, the company did not supply these or signpost the customer directly to where

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these details could be found. The company has highlighted that at the bottom of its response there is a link to its Promise leaflet, which includes details of its complaints process. However, it accepts that it did not directly address her request and I agree with the company here. The customer asked for this information again in her email of 25 September 2018 and I am satisfied that the company then supplied this information in its letter sent by email on 26 September 2018. The company has highlighted that this was still within its 10-day working timeframe for responding to written communications, which I accept. However, I consider that its failure to respond to this request in its first response, was an error and that the company did not provide its services to a reasonably expected standard on this occasion.

8. In regards to the customer's submission that the company continued to call her when she had asked to be contacted in writing only, I accept that the company tried to call her twice; on 19 September 2018 and again on 25 September 2018, despite the customer having asked to be only contacted in writing on 12 and 25 September 2018. The company has explained why it prefers for its agents to contact customers by phone in the first instance; as it can be a quicker way to resolve issues due to the two-way conversation. However, having specifically requested for the company not to call her, I consider its failure to respect her wishes shows a disregard. This is evidence of it failing to provide its services to a reasonably expected standard.
9. I acknowledge that the customer feels strongly that she should be able to choose what type of meter is installed and that she remains unhappy with the company's intention to install a smart meter in the road outside her home, despite her concerns raised about the safety of these meters. The customer has reiterated her concerns in her Reply and challenged the accuracy of the findings in the report relied upon by the company. However, I am mindful that the company has demonstrated that it has considered the safety of smart meters and that its authority to install smart meters as part of its compulsory metering programme, derives from statute. Further, I can find no evidence that the company's policy, to cease installing analogue meters in favour of smart meters, amounts to a contravention of any obligation or duty on its part.
10. Therefore, I consider that the customer's concerns raised about smart meters are understandable as she has demonstrated that not all reports and assessments undertaken have deemed RF or smart meters to be 100% safe or to carry no risk to humans. However, the company has been clear about its position and provided thorough explanations and reassurances regarding the safety of smart meters. It has also set out why smart meters are the

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its preferred method of metering due to the perceived benefits as reflected in its SMP. Therefore the company has reasonably sought to address the customer's concerns.

11. In light of my above observations, I am satisfied that the company has shown it has provided its services to the customer to the standard to be reasonably expected by the average person in relation to its SMP and its dealings with the customer in relation to the disputed issue, save for its calls to the customer when she had expressed a preference for written communication only and not providing the customer with details of its regulator in the first instance. However, as the remedy sought by the customer is for the company to install an analogue meter, these errors do not warrant the customer's claim. However, in the circumstances, I find it appropriate for the company to provide a written apology to the customer for its service failures, as set out above.

Outcome

The company shall provide a written apology to the customer.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 14 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.



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

Adjudicator

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