

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1141

Date of Decision: 1 May 2019

Complaint

The customer submits that she has lived at the property since 2004. She applied for a meter on 4 January 2018 as her bills seemed very high for a two person household. The meter was installed on 19 January 2018. There is a sizeable difference in charges, she had been paying more than double on the Rateable Value (RV) basis. The customer requests that the company backdate the meter charges and pay £2,500.00 compensation for more than 14 years of overpayment. The customer also requests compensation in the sum of £2,500.00 for distress and inconvenience.

Defence

The company submits that RV and metered charging are both valid forms of raising charges and this has been approved by its regulator, OFWAT. To enable a water undertaker to stop charging a customer using the RV as a basis of charge, by law, a customer must provide, in writing, a Measured Charges Notice (MCN) to be served on the water undertaker. Once this is received, this puts the undertaker on notice to fix a customer's charges by reference to volume, that is, by way of fitting a meter. It has proactively sent all its unmetered customers information about metering and how to apply at annual billing each year.


Findings

Under Section 143 of the Water Industry Act 1991 the company is entitled to make a Charges Scheme which fixes the charges for any services provided. There is no evidence to show that the company's Charges Schemes have not been approved by OFWAT or do not comply with OFWAT's Charging Rules. Under Water Industry Act 1991 and its Charges Scheme, a customer must elect for charging on a metered basis, and until such time as a customer does so, the RV tariff is the legal basis of charging. The evidence supports the company's submissions that information about metering was provided to the customer. There is no evidence to show that the company charged the customer incorrectly on the RV basis between 4 June 2004 when she moved into the property and 19 January 2018, when the meter was fitted.

Outcome

The company does not need to take any further action.

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The customer must reply by 31 May 2019 to accept or reject this decision.

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Party Details

Customer: []

Company: [].

Case Outline

The customer's complaint is that:

- She has lived at the property since 2004. She applied for a meter on 4 January 2018 as her bills seemed very high for a two person household. The meter was installed on 19 January 2018.
- She is unhappy as there is a sizeable difference in charges and she had been paying more than double on the Rateable Value (RV) basis.
- The customer requests that the company backdate the meter charges to when the account was opened and pay £2,500.00 compensation for more than 14 years of overpayment. The customer also requests compensation in the sum of £2,500.00 for distress and inconvenience.

The company's response is that:

- RV and metered charging are both valid forms of raising charges and this has been approved by its regulator, Ofwat.
- To enable a water undertaker to stop charging a customer using the RV as a basis of charge, by law, a customer must provide, in writing, a Measured Charges Notice (MCN) to be served on the water undertaker. Once this is received, this puts the undertaker under notice to fix a customer's charges by reference to volume, that is, by way of fitting a meter.
- Sections 142-143 of Water Industry Act 1991 allow water companies to charge customers in accordance with a Charges Scheme as agreed with Ofwat.
- Section 144 of Water Industry Act 1991 allows customers to apply for a meter.

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- Section 4 of its Charges Scheme expressly allows bills to be raised based on the RV of the property. Section 8(3) of the Charges Scheme specifies that customers will remain on their original basis of charge until the meter is actually installed.
- It has proactively sent all its unmetered customers information about metering and how to apply at annual billing each year. Each year on its annual water bills, it has provided information about the benefits of being billed by way of metered charges and information on how to apply for a meter. It has also, at times, included with the bills, annual billing leaflets also reinforcing this with additional useful information, even though it is not compelled or obligated to do so. It has also included an Optional Metering Application Form inviting customers to apply.
- As soon as the MCN was received, a meter was fitted within 15 days.

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 must remind the parties that adjudication is an evidence-based process.
2. 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.

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3. Under Section 143 of the Water Industry Act 1991 the company is entitled to make a Charges Scheme which fixes the charges for any services provided by the undertaker in the course of carrying out its functions.
4. A company's Charges Scheme must be approved by OFWAT, the Water Industry Regulator. There is no evidence to show that the company's Charges Schemes have not been approved by OFWAT or do not comply with OFWAT's Charging Rules.
5. I accept the company's submission that under Water Industry Act 1991 and its Charges Scheme, a customer must elect for charging on a metered basis, and until such time as a customer does so, the RV tariff is the legal basis of charging.
6. The company has submitted in evidence excerpts its annual billing leaflets from 2007 which support its submissions that information about metering was provided to the customer. I acknowledge the company's submissions that it no longer holds copy bills prior to 2007 due to age and system limitations. While the company has not submitted similar evidence for the full period, I accept that it is more likely than not that this information has been provided consistently since 2004.
7. There is no evidence to show that the company charged the customer incorrectly on the RV basis between 4 June 2004 when she moved into the property and 19 January 2018, when the meter was fitted.
8. I note the customer's submissions that about the fairness of the RV charge basis. However any question regarding the fairness of the company's charges are outside the scope of WATRS and fall out of my remit to consider. Under WATRS Rule 3.4.1, WATRS is not the appropriate forum to determine any complaints regarding the fairness or otherwise of the company's charge bases. My remit is to determine whether a company has acted in accordance with its Charges Scheme and the evidence submitted to this adjudication shows that the company has fulfilled this obligation.
9. In conclusion, I acknowledge the customer's claim and I can appreciate that the customer will be disappointed that I am not in a position to direct the redress sought. However, in view of all of the above, in the absence of any evidence to show that the company has acted contrary to any

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law or code, or charged the customer incorrectly, the customer has not shown that the company is obliged to backdate the metered charges to 4 June 2004 or provide compensation for distress and inconvenience.

10. Consequently, the claim is unable to succeed.

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 31 May 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.



U Obi LLB (Hons) MCI Arb
Adjudicator

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