

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1172

Date of Decision: 15 March 2019

Complaint

The customer submits that a water meter was installed at his home and at the same time he had a Smarter Home Visit (SHV) from one of the company's representatives. The representative explained that he could continue to pay the standard water rates for up to two years after the installation of the meter, but if he elected to switch to the metered rate any time during those two years, the company would provide a refund of any savings he would have made. He contacted the company in September 2018 to request to be switched on to the metered tariff and also for reimbursement of the differences between the Rateable Value (RV) charge and the metered rate. However, contrary to what he was told by the representative, the company informed him that the option to switch had to be exercised within 12 months and 28 days after installation of the meter. He agrees that he received a letter from the company on the one year anniversary in relation to this. However, he contends that the information contained in the letter was unclear. The customer also submits that following his complaint a customer service representative confirmed that there have been many other customers who had complained that they had been caught out by this policy. The customer requests that the company provide *"A refund for the difference between his Rateable Value Charges and what he could have saved electing to pay by reference to volume: i.e. measured charges."*

Defence

The company submits that it sent the customer four separate notices informing him of his eligibility to switch in the first year to claim his refund. It believes that it provided concise and accurate information leading up to and including the one year anniversary of activation. It also sent a one year comparison letter giving the customer a further 28 days to switch to metered bills and obtain a refund. It has carried out investigations with the SHV Technician who categorically confirmed he would not have advised the customer that he could receive a refund if he switched at Year Two. In any event, had this information been given to the customer, and it disputes that it had, the customer had received two separate notices at this time to advise he could switch in the first year and receive a refund. If there was conflicting information, it would have expected the customer to have called to query the situation. He did not do so. It denies that it was trying to "catch out" customers and believes that the customer has taken the information its customer service representative gave him out of context. No offer of settlement was made.

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Findings

Under Section 143 of the Water Industry 1991 Act, the company is entitled to make a Charges Scheme that fixes the terms and charges for any services provided by the undertaker in the course of carrying out its functions. A company's Charges Scheme must be approved by OFWAT. Under the company's Charges Scheme if a customer serves a Measured Charges Notice within twelve months of the date of the activation letter, they may choose to pay metered charges with effect from the date of the activation letter. It is important to note that it is not within my remit to review the company's policies. Any question regarding the fairness or otherwise of the company's policies falls outside the scope of WATRS and cannot be considered. The customer was put on notice on at least three occasions that in order to be eligible for a refund, he would need to switch to metered charges within a year. I accept the company's submissions that the information contained in its correspondence about customers' eligibility to switch in the first year to claim a refund is clear. The company also went beyond the obligations set down in its Charges Scheme, and gave the customer a further 28 days at the end of the 12 month period to obtain the refund. The evidence submitted to this adjudication supports the company's submissions that it was not trying to catch customers out. The customer has not shown that the company failed to provide its services to the customer to the standard to be reasonably expected.

Outcome

The company does not need to take any further action.

The customer must reply by 12 April 2019 to accept or reject this decision.

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- He agrees that he received the letter on the one year anniversary that also referred to the requirement for the election to switch to be done within 12 months and 28 days after installation of the meter. However, he is unsure as to how much time that letter would have given him to make that election. He also contests that the statement contained in that letter on this term was too cryptic for him to understand that the expiration period to make the election to switch was 12 months and 28 days and not two years.
- He has provided a telephone recording of a customer service representative who was involved in handling his complaint, and who confirmed that there have been many other customers who had complained that they had been caught out by this term. The representative also confirmed that the company would not uphold the complaint from any customers because if it were to do so, it would have to do it for everyone. This statement by the company indicates that both the communication intervals that this term was conveyed were inadequate and the term specifically was unfair because the company should have known that it was likely to catch out a high proportion of customers who were likely to benefit from it.
- The customer requests that the company provide *“A refund for the difference between his Rateable Value Charges and what he could have saved electing to pay by reference to volume: i.e. measured charges.”*

The company’s response is that:

- As part of its compulsory Progressive Metering Programme (PMP), the customer was given the option to switch to metered charges within the first year and receive a refund for part of his unmetered charges if these were higher. The customer did not serve the necessary Measured Charges Notice within 12 months required despite receiving information with regards to this and being given an additional 28 days to do so.
- It sent the customer four separate notices informing him of eligibility to switch in the first year to claim his refund. It believes that it provided concise and accurate information leading up to and including the one year anniversary of activation.
- On 15 October 2016 the customer’s meter was connected to the water supply pipe serving the property. On 16 December 2016 it arranged for the customer to be visited by its SHV Technician to discuss the benefits of metering and to check there were no leaks on his supply.
- The first letter and brochure sent to the customer on 28 September 2016 with regards to PMP gave details of where to gain additional information from its website with regards to the

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comparison period and also informed the customer that if he switched to a metered account within the first year it would credit his account with any money saved.

- On the day the meter was fitted on 15 October 2016, it left a brochure. The brochure informed the customer of the comparison period and his right to transfer in the first year to obtain a refund of the difference of his unmetered charges compared to metered charges.
- It sent the customer an Activation letter on 23 February 2017 which informed him of the benefits of switching within the first year.
- It sent comparison letters at three and six months and also notified the customer of the benefits of switching before the end of the two year period.
- It also sent a one year comparison letter giving the customer a further 28 days to switch to metered bills and gain a refund of the last 12 months payments where there was a difference between his unmetered and potential metered charges.
- It has carried out investigations with its SHV Technician who categorically confirmed he would not have advised the customer that he could receive a refund if he switched at Year Two. In any event, had this information been given to the customer, and it disputes that it had, the customer had received two separate notices at this time to advise he could switch in the first year and receive a refund. Therefore, due to this, and if there was conflicting information, it would have expected the customer to have called to query the situation. He did not do so.
- It has checked the customer's account to ensure that it has not received any of its letters or brochures back from the Post Office. It can confirm that at no time has any of the customer's post been returned. It cannot be held responsible for any post once it leaves its offices.
- If it was to provide the customer with a refund of part of his unmetered charges, without any justification to do so, it would be unfair to all other customers who realised after 1 year and 28 days that they had omitted to convert to metered charges and to enjoy the savings. Therefore, if it did this for the customer, it would have to do so for everyone to avoid claims from other customers of discrimination and unfairness. It also denies that it was trying to "catch out a high proportion of customers" and believes that the customer has taken the information its customer service representative gave him out of context. There is no justification to treat the customer differently to other customers and it would be unfair to do so. It therefore disputes this Application.

How is a WATRS decision reached?

In reaching my decision, I have considered two key issues. These are:

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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.
3. It is almost inevitable in such adjudications that conflicts of evidence arise, and the mere fact that the adjudicator finds in favour of one party on a particular issue does not mean that the other is telling an untruth. The adjudicator's role is to balance the evidence that is presented.

The company's policy

4. Under Section 143 of the Water Industry 1991 Act, the company is entitled to make a Charges Scheme that fixes the terms and charges for any services provided by the undertaker in the course of carrying out its functions.
5. A company's Charges Scheme must be approved by OFWAT. 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.

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6. The customer's property was compulsorily metered during the period 2016-2017. Section 9 of the company's 2016 – 2017 Charges Scheme, shows that under the company's Charges Scheme if a customer serves a Measured Charges Notice within twelve months of the date of the activation letter, they may choose to pay metered charges with effect from the date of the activation letter. The company's Charges Scheme also refers to its Code of Practice, a copy of which has been submitted in evidence. The Code of Practice confirms this policy stating that if customers switch within a year, the company will credit their accounts with any money they would have saved.
7. There is no evidence to show that the company's policy is contrary to any law or code. It is also important to note that it is not within my remit to review the company's policies. Any question regarding the fairness or otherwise of the company's policies falls outside the scope of WATRS and cannot be considered. The customer has not shown 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.

Information given to the customer

8. There are conflicting accounts of the parties' conversation during the company's SHV on 16 December 2016 and it is not possible to independently verify the information given during this conversation. However, the company has submitted in evidence an example of the letter and brochure sent to the customer on 28 September 2016 and an excerpt from the a brochure left with the customer on 15 October 2016, both prior to the SHV visit, which advised the customer in writing that if he switched to a metered account within the first year of activation, his account would be credited with any money saved. The customer does not refute receipt of these communications.
9. Further, the customer acknowledges receipt of the company's final One Year comparison letter dated 26 February 2018 which gave the customer a further 28 days to switch to metered bills and obtain a refund.
10. Having carefully considered the evidence submitted, I accept the company's submissions that the information contained in its correspondence about customers' eligibility to switch in the first year to claim a refund is clear. I find that the company's correspondence clearly advises customers that during the transition period, if customers choose to switch within the first year,

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the company will credit their account with any money they would have saved. The company, in its 26 February 2018 One Year comparison letter, clearly states *“It’s not too late to switch to your metered charge and have your account credited with the amount you would have saved if you had switched straight away. To take the credit you need to call us within 28 days from the date on this letter.”*

11. The customer was put on notice on at least three occasions that in order to be eligible for a refund, he would need to switch to metered charges within a year. I am also mindful that the company also went beyond its obligations set down in its Charges Scheme, and gave the customer a further 28 days at the end of the 12 month period to obtain the refund. Customers must bear some responsibility for their accounts. I accept the company’s submissions if there was conflicting information, the customer should have taken steps to query the situation.
12. In addition, having carefully considered the matter, I am not satisfied that the customer has shown that the intervals within which information about the company’s policy was conveyed was inadequate.
13. Finally, I note the customer’s submissions that a customer service representative had confirmed that there have been many other customers who had complained that they had been caught out by the company’s policy. For the purposes of this decision my remit is to determine the issues between the customer and the company. Any claims concerning other customers cannot be considered. Further, as discussed above, I find that the information contained in the correspondence received by the customer is clear. In addition, in giving customers a further 28 days at the end of the 12 month period to obtain the refund, the company has also gone beyond its obligations set down in its Charges Scheme, to the benefit of customers. The evidence submitted to this adjudication supports the company’s submissions that it was not trying to customers catch out.
14. In view of all of the above, the customer has not shown that the company failed to provide its services to the customer to the standard to be reasonably expected by the average person with regards to the information given to him about the company’s refund policy.
15. Consequently, the customer’s claim does not succeed.

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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 12 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.



U Obi LLB (Hons) MCI Arb
Adjudicator

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