

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1239

Date of Decision: 26 February 2019

Complaint

The customer states that he has been targeted by the company for early transition to metered billing because it will result in his payments increasing. He requests that he be permitted to remain on non-metered billing.

Defence

The company states that it is legally permitted to require the customer be billed on the basis of a meter, and that the customer has been kept properly informed throughout the transition to metered billing.

No offer of settlement has been made.

Findings

The company failed to provide its services to the customer to the standard to be reasonably expected by the average person by failing to respond directly to the specific complaint being made by the customer, despite being able to do so without violating the confidentiality of other customers. Other elements of the customer's claim are not within the scope of the WATRS scheme.

Outcome

The company needs to take the following further action: It must apologise to the customer for failing to respond directly to the complaint that was being made.

The customer must reply by 26 March 2019 to accept or reject this decision.

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 same day, the company received a letter from the customer expressing his desire to stay on Rateable Value billing, as he believed it was unfair that he was being moved to metered billing before his neighbours.
- Contact was made with the customer to discuss the changeover to metered billing.
- The company is permitted to install meters by Section 162 of the Water Industry Act 1991.
- While Section 144B of the Water Industry Act 1991 limits the power of the company to bill customers in accordance with a water meter, the Water Industry (Prescribed Conditions) Regulations 1999 permit the company to require billing by meter where a customer is in a designated area of “serious water stress”.
- The customer’s property is in such a designated area, and so the company is permitted to require that he be billed in accordance with a meter.
- It confirms that all properties in the customer’s area either are already charged on a metered basis or will be or are already part of the PMP.
- Moreover, since 1 April 2018, the comparison period under the PMP has been reduced to one year, meaning that properties that joined the PMP after this date will be billed on the basis of a meter comparatively sooner than the customer.
- The company believes that it has kept the customer appropriately informed throughout the PMP process, and that the customer has no legal entitlement to remain on Rateable Value billing.

The customer’s comments on the company’s response are that:

- The comparison letters did not address why he was targeted to be moved to metered billing as early as he was, or indicate when his road and other surrounding areas would be moved.

The company’s comments on the customer’s comments are that:

- Of the 49 properties in the customer’s postcode, 45 are already billed on a metered basis. Four properties are still billed on a non-measured basis, but all four are part of the PMP.

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.

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.

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. As argued by the company, because the customer lives in an area that has been designated by the Secretary of State to be an area of serious water stress, the company is legally permitted to require the customer be billed according to a meter.
2. I also find that the approach taken by the company to transitioning the customer to metered billing was reasonable, as it provided the customer with a substantial period over which he could adjust his water usage to reduce his bill or prepare for higher bills.
3. The customer's complaint, however, is not about the power of the company to require that he be billed on the basis of a meter, or regarding the transition process used by the company.
4. Rather, the customer's complaint is based on his belief that he was moved onto metered billing earlier than his neighbours were, and that this was done by the company as a money-making exercise because the composition of his family indicated that he would pay more through metered billing than Rateable Value billing.
5. Neither the Water Industry Act 1991 nor the Water Industry (Prescribed Conditions) Regulations specify the approach that companies must take to selecting the order in which to move customers to metered billing, but Section 2(3) of the Water Industry Act 1991 states that water companies must not show "undue preference" or "discrimination in the fixing by such companies of water and drainage charges". This limits the grounds on which the company may select

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.

- which properties to prioritise for metered billing, and may prevent the company from prioritising those properties it believes are most likely to pay more when billed in accordance with a meter.
6. However, responsibility for enforcement of this obligation under the Act is expressly allocated to “the Secretary of State or, as the case may be, the Authority”, the latter being a reference to The Water Services Regulation Authority (“Ofwat”).
 7. As a result, under Rule 3.5 of the Water Redress Scheme Rules, if the customer wishes to make a claim that he has been discriminated against by the company in violation of Section 2(3) of the Water Industry Act 1991, that claim must be brought to the Secretary of State or Ofwat, and may not be brought to WATRS.
 8. The customer’s argument that the company has unfairly “targeted” him cannot, therefore, be resolved through a WATRS adjudication.
 9. Nonetheless, a WATRS adjudicator may examine whether the company has provided its services to the customer to the standard to be reasonably expected by the average person with respect to its response to a customer’s complaint, even if the substance of that complaint must be resolved by the Secretary of State or Ofwat.
 10. In the present case, the evidence shows that the customer was clear from the beginning of his complaint that his concern was primarily that he had been unfairly “targeted” for an early transition to metered billing. In its comments on the customer’s comments in this proceeding, the company has provided information that directly addresses this concern.
 11. However, despite having this information available from the time of the customer’s earliest complaint, the company did not previously present it to the customer, or present other information that similarly directly responded to the customer’s complaint. Rather, the company focused on its argument that it was legally entitled to transition the customer to metered billing, despite the customer being clear that this was not the substance of his complaint.
 12. While the company clearly has a responsibility to maintain the confidentiality of its other customers’ billing, it has shown in its comments in this proceeding that it could have fulfilled this obligation while nonetheless substantively responding to the customer’s complaint.

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.

13. I find, therefore, that the company failed to provide its services to the customer to the standard to be reasonably expected by the average person by failing to respond directly to the specific complaint being made by the customer, despite being able to do so without violating the confidentiality of other customers.

14. Consequently, the company must apologise to the customer for failing to respond directly to the complaint that was being made.

Outcome

The company needs to take the following further action:

It must apologise to the customer for failing to respond directly to the complaint that was being made.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 26 March 2019 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.

Tony Cole

Tony Cole, FCI Arb

Adjudicator

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.