

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1323

Date of Decision: 24 April 2019

Complaint

The customer submits that she enquired about switching to a water meter in 2010, but was advised that this would not be possible due to the fact that she shares a supply with a neighbouring property in the building. She therefore continued to be billed on the Rateable Value (RV) basis as she did not proceed with the meter survey. In November 2018, she was prompted again to contact the company after being made aware of the single occupancy Assessed Household Charge (AHC) by a neighbour. The company carried out a survey which confirmed that her property could not be metered. The AHC tariff was therefore applied from 2018. The AHC tariff represents a significant saving on her charges. She has therefore overpaid in excess of £1,300.00 over nine years. No mention was made of the AHC tariff by the company in 2010. There is also no mention of the AHC tariff on the company's billing literature. The customer requests that the company fully backdate the AHC tariff.

Defence

The company submits that the AHC is only available if a customer serves a measured charges notice (MCN), and following a survey it is shown that the water supply cannot be metered. It is not possible for a customer to apply for AHC and due to this; it does not advertise this tariff. A completed and signed Optional Metering Application Form/Questionnaire (OMQ) which is returned serves as a MCN. Its 2010 notes show that the customer was directed to its website to complete an OMQ. There is no evidence to support the assertion she was ever advised that her property could not be metered because she shares a supply. If this was the case, it questions why the customer was directed to its website to complete an OMQ. It heard nothing further from the customer until 28 November 2018. During the call in November 2018, the customer advised that she had applied for a meter in the past; a survey had been carried out, and that she had been told by it that the property was unmeterable, but it did not change her billing to AHC following this. It had never surveyed the property. Therefore it was not able to advise the customer of this and denies that it ever did so. The customer has not been overcharged. RV is a correct basis of charge until such time as a meter is applied for and the survey undertaken.

Findings

The company's Charges Scheme supports the company's submission that customers must apply for a meter in writing, and until such time as a customer

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does so, the RV tariff is the legal basis of charging. Under its Code of Practice, the AHC is only available if a meter cannot be fitted. This information is also reiterated by OFWAT in its guidance to customers. The customer has not shown that the company's policy to only apply the AHC when an application for a water meter has been made and it is found that it is not possible to fit a meter, is contrary to any law or code. Nor is there any evidence to show that the company is required under any law or code to advertise the AHC tariff. In her submissions to WATRS, the customer states that in 2010 she was verbally advised that it would not be possible to have a water meter installed due to having a shared supply and she did not proceed with the meter survey. However, contemporaneous account notes support the company's submissions that in 2010, it directed the customer to its website to complete an OMQ. Contemporaneous account notes also support the company's submission that when the customer first raised the complaint, on 28 November 2018; the customer informed its agent that she had applied for a meter in the past; a survey had been carried out; and that she had been told by it that the property was unmeterable. No evidence has been submitted to this adjudication to show that the customer applied for a meter and that the company surveyed the customer's property prior to 2018. The customer has not provided any clarification about this. In the absence of any evidence showing otherwise, the customer has not shown, on a balance of probability, that the company provided incorrect information in 2010 and/or that company should have been charging her on an AHC basis since 2010 and is liable to backdate the AHC.

Outcome

The company does not need to take any further action.

The customer must reply by 23 May 2019 to accept or reject this decision.

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1323

Date of Decision: 24 April 2019

Party Details

Customer: []

Company: [].

Case Outline

The customer's complaint is that:

- She enquired about switching to a water meter in 2010, but was advised that this would not be possible due to the fact that she shares a supply with the neighbouring property in the building. She therefore continued to be billed by Rateable Value (RV) as she did not proceed with the meter survey.
- In November 2018, she was prompted again to contact the company after being made aware of the single occupancy Assessed Household Charge (AHC) by a neighbour. The company carried out a survey which confirmed that her property could not be metered. The AHC tariff was therefore applied from 2018.
- The AHC tariff represents a significant saving on her charges. The AHC tariff is approximately £147.00 less annually. She has therefore overpaid in excess of £1,300.00 over nine years.
- She maintains that in 2010 she was verbally advised that it would not be possible to have a water meter installed due to having a shared supply. No mention was made of the AHC tariff and that a water meter inspection visit was required. There is also no mention of the AHC tariff on the company's billing literature.
- The customer requests that the company backdate the AHC tariff.

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The company's response is that:

- The AHC is only available if a customer serves a measured charges notice (MCN) on it, and following a survey it is shown that the water supply cannot be metered. It is not possible for a customer to apply for AHC and due to this, it does not advertise this tariff.
- On 27 April 1998, the customer requested an Optional Metering Application Form/Questionnaire (OMQ) which was sent to her on the same day. A completed and signed OMQ which is returned serves as a MCN. The OMQ was not returned by the customer.
- On 26 March 2010, the customer called to ask for information about having a meter installed to her property. Its notes show that the customer was directed to its website to complete an OMQ. Whilst its notes are not as extensive as the parties would both like, the fact it directed the customer to its website to complete an OMQ suggests it advised the customer of the optional metering process. The customer advised that she would apply for a meter using its website and she would download the OMQ. The customer did not return an OMQ.
- Had the customer applied for a meter in 2010 and had a survey, and it took no action following this, it would have expected the customer to have contacted it to chase up changes to her account and tariff.
- Information with regards to metering is included on the reverse of all its annual unmetered water bills and within its annual billing brochures and leaflets each year.
- Despite sending the customer further information with regards to the benefits of having a water meter and how to apply for one with her annual water bills, it heard nothing further from the customer until 28 November 2018.
- The customer called on 28 November 2018. This led to it offering to complete the OMQ for her using its website. The OMQ was completed and submitted on the customer's behalf and with her permission. The call recording has been listened to. During the call the customer advised that she had applied for a meter in the past, a survey had been carried out, and that she had been told by it that the property was unmeterable but it did not change her billing to AHC following this. Its agent explained that it had no record of her applying for a meter in the last 10 years, nor any record of any surveys undertaken at the property at any time.
- It had never surveyed the property or her next door neighbours' to which the supply is shared. Therefore it was not able to advise the customer of this and denies that it ever did so. The customer has produced no evidence to support this.
- It is true that it does not advertise AHC. The reason for this is because it is not a tariff which can be applied for and the only route to obtaining this tariff is by applying for a meter, and the property being found to be completely unmeterable. Water metering is advertised on its bills and

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in its literature. It does not propose to advertise AHC as this is not a tariff which can be applied for.

- OFWAT, the Water Industry Regulator, makes clear its position on how the AHC scheme may be used: “The purpose of the charge is to make sure that customers are not unreasonably disadvantaged because they cannot have a meter. The charge is not available if the company can fit a meter at their property”.
- The customer has not been overcharged. RV is a correct basis of charge until such time as a meter is applied for, the survey undertaken and an account amended.

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. 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.

Metered charge basis

1. Under Section 143 of the Water Industry 1991 Act 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.
2. 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.
3. I accept the company's submission that under its Charges Scheme, a customer must elect for charging on a metered basis in writing, and until such time as a customer does so, the RV tariff is the legal basis of charging.
4. I also accept the company's submissions that under its Code of Practice, the AHC is only available if a meter cannot be fitted. This information is also reiterated by OFWAT in its guidance to customers. While the company has not submitted similar evidence for the full period, I accept that it is more likely than not that the policy has been consistent since 2010.
5. The customer has not shown that the company's policy to only apply the AHC when an application for a water meter has been made and it is found that it is not possible to fit a meter, is contrary to any law or code.
6. Nor is there any evidence to show that the company is required under any law or code to advertise the AHC tariff. As confirmed by the evidence above, the AHC is not a tariff which can be applied for.
7. The company has submitted in evidence excerpts from the customer's bills and copies of the customer's annual billing leaflets from 2010 which support its submissions that information about metering was provided to the customer.

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8. I note the customer's submissions to WATRS that in 2010 she was verbally advised that it would not be possible to have a water meter installed due to having a shared supply with her neighbour. However, I am mindful that the company's contemporaneous account notes support the company's submissions that in 2010, it directed the customer to its website to complete an OMQ. No evidence has been submitted to this adjudication to show that an OMQ was ever returned. The customer also submits, on her WATRS application, that due to the advice given she did not proceed with the meter survey in 2010. However, I am also particularly mindful that contemporaneous account notes also support the company's submission that when the customer first raised the complaint, on 28 November 2018; the customer informed its agent that she had applied for a meter in the past; a survey had been carried out; and that she had been told by it that the property was unmeterable. No evidence has been submitted to this adjudication to show that the customer applied for a meter and that the company surveyed the customer's property prior to 2018. The customer has not provided any clarification about this. Having carefully considered the matter, given the numbers of years which have passed since the parties' communications in 2010, in the absence of any evidence showing otherwise, I am inclined, on a balance of probabilities, to attach weight to the company's contemporaneous account notes. The evidence does not show, on a balance of probability, that the company provided incorrect information in 2010 and/or that company should have been charging the customer on an AHC basis since 2010.

9. 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, there is no evidence to show that the company has acted contrary to any law or code and that the company has failed to provide its services to the standard to be reasonably expected by the average person. The customer has not shown that the company is obliged to backdate the AHC.

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 23 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.
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U Obi LLB (Hons) MCI Arb
Adjudicator

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