

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT-X567

Date of Decision: 04 October 2021

Party Details

Customer: The Customer

Company: The Company

Complaint

The customer has a dispute with the company regarding its intention to transfer her onto a measured tariff as from June 2022. The customer says she wishes to remain on her current RV tariff, and she questions the company's right to compulsorily enforce her to have a meter installed. The customer also contends that the company has not followed the contract by providing two years of comparative data showing differences in charges between the two tariffs. The customer claims that, despite ongoing discussions with the company and the involvement of CCWater, the dispute is unresolved and therefore she has brought the claim to the WATRS Scheme and asks that the company be directed to keep her on a RV tariff and issue comparative data for the full two-year period.

Response

The company states that it has complied with all applicable legislation and procedures in installing a meter and planning to transfer the customer to a measured tariff. The company says the customer is not able to decline to be transferred. The company acknowledges that because of numerous acts of vandalism of the meter the two-year comparative period has had to be restarted on several occasions but that current procedures only require a one-year period. As a gesture of goodwill, it has extended the period for the customer to nineteen months and believes this is a reasonable compromise. The company has not made any offer of settlement to the customer.

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.

Preliminary Findings

I find that the company has acted correctly when installing the meter and, in its intention, to transfer the customer to a measured tariff. I find the company has complied with all relevant legislation. I further find that the company's intention to extend the comparative period from twelve to nineteen months is reasonable. Overall, I find that the company has not failed to provide its services to a reasonable level nor has failed to manage the customer's account to the level to be reasonably expected by the average person.

Preliminary Outcome

The company does not need to take further action.

The customer must reply by 29 October 2021 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.

ADJUDICATOR'S DECISION

Adjudication Reference: WAT-X567

Date of Decision: 04 October 2021

Case Outline

The customer's complaint is that:

- She has experienced an ongoing dispute with the company concerning issues with billing and metering on her account. Despite the customer's recent communications with the company, and the involvement of CCWater, the dispute has not been settled.
- The customer records that she is disabled and visually impaired.
- The water company fitted a meter to the supply pipe serving her property on 20 June 2017. The customer says that she had no prior discussions with the company as to whether she wished to have a meter. She states that she is happy with being charged on a Rateable Value [RV] tariff and does not wish to change to a metered tariff.
- She was not given any advance notice of when the meter would be installed, and she only became aware after it was fitted.
- The company, when issuing pre-installation information in 2016, advised customers that they would not be placed on a metered tariff before a two-year post installation period had expired. Further, the customer says the company stated it would provide comparative data every six months showing the difference in charges between her existing tariff and a metered tariff.
- The company informed her that her two-year comparative period would commence in September 2017.
- Because the company had problems in respect of taking meter readings the two-year period had to be restarted on more than one occasion. The customer says that she is aware the transmitter attached to the meter has been disabled on numerous occasions.
- In November 2020 she received a letter from the company advising her that because of the meter transmitter problems it was restarting her comparative period once again, but with a duration of one year and not two. The customer says she conveyed to the company her unhappiness that the comparison period was being halved.

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.

- She disagrees with the company's position that her water consumption remains consistent throughout the year. The customer contends that she uses less water during the winter months than in summertime.
- She believes when the company has changed all customers to metered charges it will drastically increase these charges. Thus, she would prefer to remain on the RV tariff.
- This issue has been ongoing for some four years, and believing the company had not properly addressed her concerns she, on 19 October 2020, escalated her complaint to CCWater who took up the dispute with the company on her behalf. The records show that CCWater contacted the company and requested more detailed information from it and to review the customer service provided.
- Following further exchanges of correspondence, subsequently, on 14 July 2021, CCWater informed her that the company had advised it that it no longer operated a two-year comparative period since its systems were updated in 2019. However, it had manually calculated consumption over an additional seven-month period, thus giving a total comparative period of nineteen months. CCWater also informed her that the company had confirmed that it could not arbitrarily increase prices and it took a five-year period of negotiation to have OFWAT approve any proposed price increase.
- CCWater advised her that it believed the company would not change its position and thus confirmed that it could not take any further steps to alter the position of the company and was closing her complaint.
- The customer says that despite the intervention of CCWater, the dispute is ongoing, and the company has not changed its position and CCWater are unable to obtain a resolution between the parties. The customer remains dissatisfied with the response of the company and has, on 17 August 2021, referred the matter to the WATRS Scheme where she requests that the company be directed to provide comparative bills for a two-year period and not to transfer her to a metered tariff.

The company's response is that:

- It provided its response to the claim in its submission dated 26 August 2021.
- It has the legal right to record water usage via a meter at all properties within its region, and it began progressive meter installation in the customer's area as from 2016.

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 customer was sent written information about the introduction of metering, and its operatives visited the customer's property on three separate occasions but failed to speak with her.
- In 2016 its policy was to have a two-year period between meter installation and commencing to charge on a measured tariff. Additionally, customers would be provided with comparative data on consumption and charges at six monthly intervals during the two-year period.
- It confirms the customer's understanding that meter readings were not taken consistently because of damage to the transmitter fitted to the meter. It states that had the transmitter not been vandalised the two-year comparative period would have expired on 23 September 2019.
- It confirms that it was only the transmitter that was being damaged and that the meter functioned correctly at all times.
- It disputes the customer's contention that the meter has been incorrectly recording consumption. It says its records show that the customer would have paid less charges if she was billed on a measured tariff rather than her existing RV tariff.
- It notes that its Charges Scheme shows that should a customer be concerned about the accuracy of a meter it may be tested at an independent laboratory. It says it has no record of the customer requesting that the meter be tested.
- It believes that the recent readings show that the customer's consumption is in line with the average consumption of a one-person household.
- It has advised the customer that she will not be placed on a measured tariff until June 2022.
- It has advised the customer that should she refuse to accept transfer to a measured tariff the company has the right to charge her according to a "No Access" tariff, and that charge currently stands at £661.00 for the year 2021/2022. It confirms the customer would not have the option to remain on the RV tariff.
- In summary, in regard to the two remedies sought by the customer, it confirms that it is intended to place her on a measured tariff as from June 2022 and that from now until June 2022 she will receive regular comparative bills as requested.

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 customer's comments on the company's response are that:

- On 02 September 2021, the customer submitted comments on the company's Response paper. I shall not repeat word for word the customer's comments and in accordance with Rule 5.4.3 of the Rules of the WATRS Scheme I shall disregard any new matters or evidence introduced.
- The customer states that much of the supporting documentation submitted by the company is not relevant to her claim. The customer disputes the company's statement that it is obliged to install meters at all properties. She further believes that there have been more incidents of meter transmitter vandalism than she is aware of, and questions why the company cannot install tamper proof covers to the meter cabinets. The customer believes the Response paper and its large amount of submitted evidence is a bullying tactic and amounts to contemptuous behaviour on the part of the company, and that it does not take her vulnerable status into consideration.

The company's response to the customer's comments is that:

- On 07 September 2021, the company responded to the customer's comments on its Response paper. In accordance with Rule 5.4.4 of the Rules of the WATRS Scheme I shall accept these comments for consideration, but I shall not repeat word for word the company's comments.
- The company states that it was not previously aware of the customer's vulnerable status. It believes the evidence submitted in support of its Response is relevant to its defence of the claim. It denies the customer's allegations of bullying or contemptuous behaviour and refutes it attempted to use toilet humour.

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

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.

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 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 dispute relates to the customer's dissatisfaction that the company intends to move her onto a measured tariff and has not supplied her with comparative billing for a period of two years.
2. I note that the WATRS adjudication scheme is an evidence-based process, and that for the customer's claim to be successful, the evidence should show that the company has not provided its services to the standard that would reasonably be expected of it.
3. It seems to me that the crux of this dispute is that the customer wishes to remain being charged on a RV tariff while the company intends to transfer her to a measured tariff as from June 2022. The customer questions the company's right to implement this transfer.
4. From my reading of the evidence submitted to me I am satisfied that the company is acting correctly in its intent to transfer the customer to a measured tariff.
5. The company's compulsory metering programme was set down under section 37B(8)(a) of the Water Industry Act 1991 and has been approved by the appropriate government department.
6. The area served by the company has been classified by the same government department as being "water stressed", and as such all properties within the area are subject to being compulsorily metered.
7. I thus find that the company has complied with all applicable legislation in the ongoing implementation of its compulsory metering policy, and as such I shall not direct that it permits the customer to remain indefinitely on a RV tariff.
8. The customer has also complained that the company has not complied with its own stated intention to provide customers with comparative data to show the difference in charges between RV tariff and a measured tariff for a period of two years.
9. I note that in her submission the customer refers to the comparative data being provided as part of a contract. I do not find that there was any contractual agreement between the parties in this regard, and I am satisfied that the provision of comparative data was never stated nor implied by

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 company as being offered. Simply, the company stated it would provide such data to assist customers, it was never offered and open to acceptance or rejection.

10. I can see from the documents submitted that the company commenced its compulsory metering programme in 2016, and at that time produced and issued to all customers a brochure entitled "Getting your smart meter".
11. This brochure states that customers will have a two-year period following meter installation before they move to a measured tariff, and during this period they would receive letters showing comparative costs between the RV and measured tariffs.
12. The company installed the meter at the customer's property on 20 June 2017, and advised her that her two-year comparative period would theoretically commence as from September 2017.
13. The parties agree that the transmitter attached to the meter was vandalised on numerous occasions, preventing the company from receiving consumption data and issuing comparative figures.
14. From my reading of the evidence I can see that the transmitter was damaged on at least the following occasions :-
 - 22 November 2017
 - 09 April 2018
 - 29 January 2019
 - 11 July 2019
15. During the original two-year period the company was forced to restart the comparative period on several occasions.
16. I note the company document entitled *Household Charges Scheme 2021-22*. and I can see that this states :-

7.3.4 Once we have fitted the meter, in order to help you adjust to metered charges, we will send you regular 'comparison' bills over the 12-month comparison period. These will show the difference between your unmetered charges and what you would be paying if charged on a metered basis.

7.3.5 We will switch you to metered charges from the date of your first meter reading taken after the 12-month comparison period, unless you have asked us

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.

to switch to metered charges before then, or if there has been a change of occupation of the property.

17. The customer is not happy that the comparative period has been reduced from two years to one year. I note that the company has restarted the comparative period such that the customer will in effect have a period of some nineteen months.
18. I do not find on balance that the company can be held liable for the intermittent acts of vandalism that have damaged the meter transmitter unit and disrupted the original comparative period that should have commenced in 2017.
19. I am satisfied that the company's response in providing the additional seven months to the comparative period is a fair and reasonable compromise in light of the change to the compulsory metering procedure. I am satisfied this gives an equal benefit to both parties, neither of whom is responsible for preventing vandalism.
20. I am satisfied that the second remedy sought by the customer has been addressed, and that the company has commenced sending out comparison letters in July 2021 and will continue to do so until June 2022. However, I am aware that the company has predicated this commitment on there being no further cases of vandalism of the meter transmitter.
21. I take note of the customer's contention that the meter has not been recording correctly, because she claims her water usage is not constant throughout the year as stated by the company. I can see that the company provides a meter testing service (partially at the customer's expense) and that it has not received any such request from the customer.
22. Overall, I am satisfied that the company has acted correctly when installing a meter at the customer's property in preparation of a compulsory transfer to a measured tariff, and it has responded reasonably in extending the current comparative period from twelve to nineteen months.
23. My conclusion on the main issues is that the company has not failed to provide its services to a 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.

The Preliminary Decision

- The Preliminary Decision was issued to the parties on 21 September 2021.
- The company responded to the Preliminary Decision on 22 September 2021, and confirmed it had no comments.
- The customer has submitted comments on the Preliminary Decision on 27 September 2021.
- The customer reiterates her concerns over the company's performance in respect of GDPR requirements.
- The customer acknowledges that she did not suffer any direct financial loss but reiterates the large amount of time she has spent dealing with the company over the dispute.
- The customer did not submit any additional evidence in support of her original claim.
- Having read the customer's comments I am satisfied that no amendments are required to the Preliminary Decision.

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 29 October 2021 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.

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.



Peter R Sansom

MSc (Law); FCI Arb; FA Arb; FRICS;
Member, London Court of International Arbitration.
Member, CI Arb Business Arbitration Panel.
Member, CI Arb Pandemic Business Dispute Resolution Arbitration Panel.
Member, CEDR Arbitration Panel.
Member, CEDR Adjudication Panel.

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.