

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WATX195

Date of Decision: 02 March 2023

Party Details

Customer: XX
Company: XX

Complaint

The customer has a dispute with the company regarding it removing the meter at his property and moving him to an assessed charges tariff. The customer says the company was wrong to transfer him and that the assessed annual consumption of 400m³ is excessive. The customer states that he has put forward several proposals for returning him to a metered tariff, but none have been accepted. The customer claims that despite ongoing discussions with the company and the involvement of CCWater the dispute is unresolved and therefore he has brought the claim to the WATRS Scheme and asks that the company be directed to reassess his metering and charges according to his proposals, assist him to claim refunds from previous water supply companies, and pay him an unspecified amount of compensation.

Response

The company states that it is unable to return the customer to a metered tariff or accept his proposals, and that only the wholesaler can make these decisions. The company says that it has made all reasonable efforts to have the wholesaler change its position, but without success. The company has not made any offer of settlement to the customer but records that it made a goodwill payment of £695.00.

Findings

The claim does not succeed. I find that the evidence does not prove on a balance of probabilities that the company is in a position to provide the remedies sought by the customer. I am satisfied that the evidence establishes that the company made all reasonable efforts to have the wholesaler change its position but was not successful. Overall, I find that

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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.

Outcome

The company does not need to take further action.

The customer must reply by 31 March 2023 to accept or reject this decision.

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Case Outline

The customer's complaint is that:

- He has experienced an ongoing dispute with the company concerning issues with billing, and metering. Despite the customer's recent communications with the company, and the involvement of CCWater, the dispute has not been settled.
- The business is located in a property along with two residential apartments.
- The property has a metered supply, and also has a deduction meter to calculate the water used by the residential units. The company is billed on the quantity used after the deduction of the residential consumption, and the two apartments are billed according to an unmetered tariff.
- During the COVID lockdown in 2020 he understood that the deduction meter was not functioning and thus believes that he has been paying for the two apartments water consumption for a number of years.
- Upon complaining to the company, it had the wholesaler investigate and it, in turn, confirmed that the deduction meter was not operative and thus transferred him to an assessed charge tariff based on a consumption of 400m³ per annum.
- He disagrees with the wholesaler's assessed volume and has calculated that his annual consumption is closer to 189m³.
- The company initially accepted his calculations and gave him a goodwill payment, but advised it could not continue to charge him based on his assessment as it was for the wholesaler to agree.
- Believing the company had not properly addressed his concerns he, on 16 September 2020, escalated his complaint to CCWater who took up the dispute with the company on his behalf. The records show that CCWater contacted the company on 03 November 2020 and requested

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more detailed information from it and to review the customer service provided. An ensuing exchange of correspondence ensued between the four stakeholders.

- Subsequently, on 19 August 2022, CCWater advised him that it understood the wholesaler would not change its assessment and had stated that it was correctly based on its approved Scheme of Charges.
- CCWater also informed him that it could not take any further action to have the company change its position and was therefore closing his complaint.
- On 23 July 2022 he took his own meter reading that showed his annual consumption had been 370m³, and not 400m³ as assessed by the wholesaler. The customer says that this shows he is being charged for more water than is being consumed by his business plus the two apartments.
- He remains dissatisfied with the response of the company and has, on 28 September 2022, referred the matter to the WATRS Scheme where he requests that the company be directed to (i) recalculate its assessed charges to achieve a lower annual consumption figure or permit him to be billed by meter readings for the entire property and he will claim the appropriate refund from the residential units, (ii) pay an unspecified amount in compensation, and (iii) arrange refunds from previous water suppliers.

The company's response is that:

- It provided its response to the claim in its submission dated 16 January 2023.
- It opened an account in the name of the customer on 13 March 2020.
- It confirms that two residential units share the property with the customer's commercial unit. The property was metered.
- During the COVID lockdown the commercial premises remained empty, and the only water consumed was by the residential units.
- It requested the wholesaler to verify the supply and metering situation at the property. The wholesaler confirmed the property was metered and that one of the residential units had a sub-meter. The wholesaler stated that this system was not effective in calculating the consumption of the commercial unit and thus removed both meters and placed the customer on an assessed usage tariff.

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- It again challenged the wholesaler to check if a meter can be re-installed and to confirm that changing to an assessed tariff is strictly necessary. The company says that it has not received a response from the wholesaler.
- Should the wholesaler confirm its position on using an assessed charge based on a consumption of 400m³ per annum it will not be able to raise another challenge.

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

- On 19 January 2023, 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 says he has had no contact from the wholesaler since 07 November 2022, and that there appears to be factual inaccuracies in the company's Response. The customer says he believes a solution would be to install a deduction meter in each residential unit and he is aware that the unit without a deduction meter does not pay for water consumed. The customer repeats his suggestion for the main meter to be reinstalled and that he will pay the bill for the entire property and recover the usage from the residential units.
- On 21 January 2023 the customer submitted a further detailed proposal for the installation of new meters to both residential units. The customer also requested that both the company and the wholesaler provide him with written support for him to claim refunds from previous suppliers.

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

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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 has been unable to have the wholesaler return him to a metered tariff after it wrongly transferred him to an assessed charge tariff at an excessive estimated annual usage.
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. I am aware that both the water retailer and water wholesaler are referred to in the claim made by the customer. The retailer is **XX XX** and the wholesaler is **XX**. In this WATRS adjudication decision, **XX XX** is defined as the "company".
4. I further find that it is useful at this point to set out the different responsibilities of retailers and wholesalers in respect of business customers. Simplistically, the wholesaler is responsible for the provision and maintenance of the water supply and sewerage networks (including the installation and maintenance of meters), and the retailer handles account management, billing, customer service etc.
5. Following the opening of the business water market on 01 April 2017 the wholesaler is permitted to set the tariffs for water delivery/sewage collection and maintenance of the water supply/collection network. This also means that the wholesaler sets out its other procedures such as leak allowances, refunds, bill adjustments, etc.
6. The retailer does not install or maintain meters. It is obliged in its customer facing role to manage administrative dealings such as passing meter installation requests to the wholesaler, billing, meter reading, and providing customer services.
7. From the evidence provided to me I am aware that the customer's property is classified as a business and therefore he is a customer of the company and not the wholesaler. The customer receives water services from the wholesaler.

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8. I can see that this dispute has been ongoing for a considerable length of time, the customer being in contact with the company before escalating to CCWater on 16 September 2020.
9. I take note that the parties have expressed dismay with the inputs of the wholesaler and the amount of time it has taken to respond to various communications.
10. I can further see that the customer is unhappy that the wholesaler removed the meter from his property and moved him to an assessed charges tariff.
11. The customer identified in 2020 that the deduction sub-meter was not functioning and complained to the company. The company, in turn, passed the complaint to the wholesaler who attended the property for an on-site investigation.
12. The wholesaler identified that only one of the two residential units had a deduction meter and that this meter was not functioning. The wholesaler has explained its position that this situation was not accurate in recording the actual consumption of the customer's business unit, and that a new meter solely for his premises could not be installed.
13. The wholesaler took the decision, in compliance with its Schedule of Charges, to remove the two meters and move the customer to an assessed charges tariff.
14. The wholesaler states that according to its calculations, based on the information provided by the customer, that his assessed annual consumption was 425m³ and thus it fixed a chargeable consumption at 400m³. I am satisfied that the wholesaler was seeking to find the optimal situation to ensure the customer paid only for the water consumed by his business unit.
15. I can see that there has been an ongoing exchange of correspondence between various stakeholders. From my reading of the evidence, I am satisfied that the company has, to a reasonable level, taken up the issue with the wholesaler on behalf of the customer. I can see that the company made representations to the wholesaler on several occasions to have it reconsider both the migration to an assessed charge basis and the 400m³ assessed consumption.
16. I can further see that the wholesaler has consistently stated that the assessed charges tariff and the assessed consumption have been correctly applied within the *Business Assessed Charges* regulations that have been approved by OFWAT.
17. I take note that CCWater has stated that it agrees with the wholesaler's calculations.

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18. As I have pointed out earlier in this Decision, the company cannot overrule the charging decisions of the wholesaler. However, the evidence shows that the company made reasonable efforts to have the wholesaler change its position, but without success.
19. I also take into consideration that the company has made a goodwill payment to the customer in the amount of £695.00. I find this to be reasonable having regard to the fact that the company did not set the charges.
20. I am aware that in support of his application to the WATRS Scheme the customer has made several proposals in respect of the charging policy he would like to see implemented. I will make no comment on the various proposals as I do not find them pertinent to this dispute. The customer's proposals are not within the gift of the company, only the wholesaler can reject or accept them.
21. I am unable to direct the company to accept any of the customer's proposals as he has requested in his application. Only the wholesaler can decide on the customer's proposals but the wholesaler is not a party to this dispute.
22. Similarly, I am also unable to make any direction in respect of the customer's request to have the company and the wholesaler support him in his quest to have previous water suppliers grant him refunds. I am afraid this is solely a matter for the customer to directly approach the other service providers.
23. The customer has requested that the company be directed to pay him an unspecified amount of compensation.
24. I find that the evidence does not establish on a balance of probabilities that there was any error or omission on the part of the company in its actions and responses to the customer's complaints and it thus follows that I find compensation to be not appropriate. I shall not direct the company to pay compensation.
25. 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.

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The Preliminary Decision

- The Preliminary Decision was issued to the parties on 16 February 2023.
- The customer has, also on 16 February 2023, responded to the Preliminary Decision.
- The customer states that he was not expecting a decision at this stage. However, I note that he did receive the company's response to his complaint, and he submitted comments on the response on 19 January 2023.
- The customer believes that the issuing of the Preliminary Decision is prejudicing any further response from the wholesaler. However, as I have noted in the Preliminary Decision, the wholesaler is not a party to this dispute, the customer's complaint is against the actions of the company.
- Whilst I take note of the customer's comments, I am satisfied that he initiated the WATRS process and that the process has been correctly followed. The process has strict rules and timelines, and it is outside the adjudicator's jurisdiction to change or amend the process. I am required to issue the Final Decision in line with the WATRS process.
- I am satisfied that the facts upon which the Preliminary Decision was based remain unchanged.
- Thus, 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 31 March 2023 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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Peter R Sansom

MSc (Law); FCIArb; FAArb;
Member, London Court of International Arbitration.
Member, CIArb Business Arbitration Panel.
Member, CIArb Pandemic Business Dispute Resolution Arbitration Panel.
Member, CEDR Arbitration Panel.
Member, CEDR Adjudication Panel.

Independent Adjudicator

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