

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X428

Date of Final Decision: 22 April 2023

Party Details

Customer: XX

Company: XX

Complaint

The customer says that he has been billed incorrectly for a number of years. He requests that the company retroactively bill him on the basis of the meter readings that have been taken.

Response

The company says that the customer has been billed correctly. No offer of settlement has been made.

Findings

The company provided its services to the customer to the standard to be reasonably expected by the average person.

Outcome

The company does not need to take any further action.

The customer must reply by 16 May 2023 to accept or reject this decision.

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Case Outline

The customer's complaint is that:

- A water meter was installed at the Property in the 1990s, but he has been charged by the company on a non-metered basis (a license fee) since that time.
- Because of this he has been overcharged for a number of years, as he lives alone.
- He requests that the company retroactively bill him on the basis of the meter readings that have been taken.

The company's response is that:

- The company was formed in **XX** from the merger of two other water companies, and the meter was installed at the Property prior to the merger.
- The company cannot confirm that the meter was installed at the request of the customer, as the request would not have been made to the company itself, but to a predecessor company.
- One of the conditions of the **XX** merger was that companies would continue to pay their wastewater charges via meter if one was fitted, but that freshwater charges would be based on a non-metered license fee.
- Since becoming a customer of the company in **XX**, the customer has always been billed on the basis of a license fee, and this has been stated on his bills.
- The customer first made contact about his freshwater charges on 31 August 2022.
- The company switched the customer to metered billing as of his most recent reading, which was on 22 August 2022.
- The company denies liability for the customer's claim.

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. In many disputes, the evidence as to precisely what happened will be to some degree unclear, and the law addresses this uncertainty through what has come to be known as the "balance of probabilities" test. Under this test, the decision-maker must look at the evidence provided by the parties, and decide what is most likely to have happened based on that evidence. Importantly, this decision is only based on the evidence provided by the parties, and so is made with full knowledge that the evidence provided may in some way be misleading, or that there may be additional evidence that would justify a different conclusion. However, as a decision must be made, it must be made based on the evidence actually provided, not on the decision-maker's unsupported speculations regarding what may or may not have happened.
2. In addition, the law requires that disputes be decided in accordance with "burdens", with the customer having the "burden" of producing evidence to support the claim. This means that if the evidence provided by the parties is evenly balanced between the accounts of the two parties, or is otherwise insufficient to justify a conclusion that the customer's account is more likely than not correct, then the customer has failed to meet the burden and the claim cannot succeed. Again, this evaluation must be made based on the evidence actually provided by the parties, not based on unsupported speculation by the decision-maker regarding what may or may not have happened.
3. In the present case, the company acknowledges that the customer has been billed on a non-metered basis despite a meter having been installed at the Property. Given that the evidence indicates that the meter was installed nearly 30 years ago, I accept that it is reasonable that the



company does not have records regarding the reason for the meter being installed, including records that might have originally been generated by a predecessor company.

4. Ordinarily the presence of a meter at a property would raise a presumption that the meter was installed in order to allow billing on the basis of the meter. However, the company has confirmed that as a condition of the merger of its predecessor companies meters were to be used for wastewater billing, even if freshwater billing was on a non-metered basis.
5. I note that this is consistent with the customer's statement in an email to the company on 5 September 2022 that he "was asked was back in the 90s to have one installed to change billing process", rather than that he asked for a meter to be installed. This distinction is important because under the Water Industry Act 1991 the customer's water company would not have had the right to require that the customer be billed on a metered basis unless a compulsory metering scheme was in effect. That the customer was subsequently billed by the company on a non-metered basis supports a finding that no such scheme was in effect when the meter was installed. As a result, the most likely explanation for the installation of the meter was to enable metered billing of wastewater charges, and not freshwater charges.
6. Of course, the initiative for installing the meter could have come from the customer's water company, with the customer then requesting that his freshwater also be billed on a metered basis. Given the passage of time it is understandable that neither party has evidence on this point.
7. Nonetheless, it is undisputed that the customer has been billed on a non-metered basis since he became a customer of the company in **XX**, that since at least 2016 the customer's bills have expressly stated that he was being billed on a non-metered basis (bills prior to this date no longer being available), and that no evidence has been produced of the customer challenging his billing prior to 31 August 2022.
8. Taking into account all of the preceding, I find that the evidence supports a conclusion that the customer was correctly billed by the company on a non-metered basis. I accept the customer's statement that he believed he was being billed on a metered basis, as was understandable given the presence of a meter that was regularly being read. However, I find that this was a misunderstanding by the customer, even if an understandable one.
9. I also find that by expressly noting on the customer's bills the basis on which it was billing the customer, the company provided the customer with the ability to challenge his bills and thereby

fulfilled its duty of care to the customer in this respect. In addition, once the customer expressly requested billing on the basis of meter readings, the evidence shows the company immediately adopting that approach, including backdating the customer's billing to the most recent reading rather than only doing so for future billing.

10. In his comments on the Proposed Decision in this case, the customer argued that when his meter was last changed "a few years ago" he contacted the company and requested that he be billed on the basis of his meter. However, the company has confirmed that it has no evidence of such a contact being made, and the customer has produced no evidence from his own phone records of making a phone call to the company at this time, or evidence of contacting the company in another form. While the customer has requested that the company be required to provide to him a "full audit of their telephone logging system" for the period in question and "a record of all their phone calls during this time", such an order would not be justified without some evidence supporting a conclusion that the customer's was more likely than not to be confirmed. The customer has not provided such evidence.


11. For the reasons given above, I find that the company has provided its services to the customer to the standard to be reasonably expected by the average person with respect to the billing of the Property.

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 16 May 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.



Tony Cole

Tony Cole, FCI Arb

Adjudicator