



DISPUTE REFERRED UNDER SECTION 45 OF THE WATER INDUSTRY ACT 1991

CONNECTION OF NEW WATER SUPPLIES

MR R CARAVONA v THAMES WATER UTILITIES LIMITED

Report

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9 September 2010

NEW WATER CONNECTIONS CHARGES DISPUTE SECTION 45 WATER INDUSTRY ACT 1991

Mr R Caravona v Thames Water Utilities Limited

1 Introduction

- 1.1 This report is about a dispute referred by Mr R Caravona under section 45 of the Water Industry Act 1991 ("WIA91"), as amended by the Water Act 2003, to the Water Services Regulation Authority ("Ofwat").
- 1.2 The dispute is between Mr Caravona and Thames Water Utilities Ltd ("Thames Water") and is about the amount recovered by Thames Water for the connection of nine new water supplies to Thames Water's mains at Flats 1-9, 1A Moray Mews, London, N7 7DZ. The works were completed in June 2009.
- 1.3 Thames Water has recovered £4431.00 (exclusive of VAT and infrastructure charges). Mr Caravona does not consider this charge to reflect the costs reasonably incurred by the company.

2 Legal Background

- 2.1 Section 45 of WIA91 provides that the water company may recover from the person who has requested a connection to the main for a supply of water for domestic purposes the expenses reasonably incurred by it in making the connection.
- 2.2 Section 45(6A) of WIA91 provides that any dispute about whether the expenses were reasonably incurred may be referred by either party for determination by Ofwat.
- 2.3 Ofwat's decision is final and binding on the parties to the dispute subject to judicial review. This determination is enforceable as if it were a county court judgment.

3 Details of the works carried out

- 3.1 method of connection: Open Excavation
number of connections: 2 connections at main to facilitate 9 supplies
ground surface type: Footpath and Carriageway
length & diameter of pipe: 4.1 metres of 63mm Medium Density Polyethylene ("MDPE") (to 6-Port Manifold)
4.1 metres of 50mm MDPE (to 4-Port Manifold)
meters installed: 9
works by: Contractor – J Browne Construction Ltd
reinstatement by: Contractor – J Browne Construction Ltd

4 Amount recovered by Thames Water

- 4.1 Thames Water has recovered total charges of £4431.00 (excluding VAT and infrastructure charges) in respect of the provision of the new/replacement water connection, from Mr Caravona.
- 4.2 Thames Water states that the charges were based on standard charges. The company applied charges for installing 5 metre long connections using a 4-port manifold and a 6-port manifold.

5 Approach to the Determination

- 5.1 In making the determination Ofwat has had regard to information from an independent review of contractors' rates and the cost of materials. We have also taken account of information about contractors' charges and other information about costs which has been made available to us when considering previous disputes referred for determination under Section 45(6A) of the WIA 91.
- 5.2 Where the company has used a contractor selected following a competitive tender process, we will generally accept that the amount paid to the contractor for the work represents the expenses reasonably incurred. We will, however, query those costs where they appear to be substantially higher than might be expected having regard to other information available to us.
- 5.3 The determination we make concerns the total amount charged. However, in order to make the determination we have considered the following four components, the combined costs of which amount to the total charge.

(a) Connection work

This includes all costs associated with excavation, pipelaying, connection and temporary reinstatement including direct pay of operatives and labour overheads e.g. National Insurance, sickness, bonuses, plant, transport and direct supervision. Where a contractor is employed these costs would be covered by its charge to the water company.

(b) Materials

The cost to the company of the materials used to make the connection.

(c) Permanent Reinstatement

This is the cost of the work to effect permanent reinstatement of the public roads and footpaths.

(d) Overheads

This covers all costs incurred when carrying out the connection work which are not covered by (a), (b), or (c) above. It includes billing and invoicing costs; planning and design costs; appointment and supervision of contractors; warning notices costs; depot on-costs, set up costs and inspection.

6 Mr Caravona's Views

- 6.1 Mr Caravona is unhappy with the charge raised by Thames Water for making the connections to its main. He considers the charge of £4431.00 to be in excess of the costs that were reasonably incurred. Mr Caravona disputes the costs of £6064.99 that Thames Water told him that it had incurred.
- 6.2 Mr Caravona has also commented that the charge by Thames Water was almost twice that quoted by EDF for the provision of new electricity connections 9 metres in length.
- 6.3 Mr Caravona states that the connection work was carried out by a two man gang; it commenced at 08.00 on Tuesday 2 June 2009, and was completed by 14.00 on the same day.
- 6.4 Mr Caravona commented that the job was carried out manually and an industrial digger was not required by the contractors.

- 6.5 Mr Caravona disputes the amount of trenching and reinstatement work that Thames Water says the contractor carried out. He states that the contractor excavated and reinstated a trench 1.2 metres in length; 0.6 metres wide; and 0.8 metres deep in the carriageway. He adds that he excavated a trench 1.4 metres in length; 1.0 metre wide; and 0.8m deep in the footpath. He also states that EDF reinstated the footpath after they had completed their electricity connection work. The local council subsequently replaced the footpath slabs and kerbstones as part of a general regeneration programme in November 2009.
- 6.6 Mr Caravona adds that Thames Water's contractor only returned to reinstate the carriageway after Mr Caravona had advised Ofwat in November 2009 that the carriageway had not at that time been reinstated.

7 Information provided by Thames Water

7.1 Summary of Costs

- 7.1.1 Thames Water initially stated to Ofwat that the actual costs it incurred in carrying out the works were as follows:

Connection Work	£3760.66
Materials:	£ 697.33
Permanent Reinstatement:	£ 475.59
Overheads:	£ 985.46
<u>Direct Costs:</u>	<u>£ 158.14</u>
<u>Total</u>	<u>£6077.18</u>

- 7.1.2 Following our challenge in relation to the work actually carried out by Thames Water's contractor, the company has provided revised details of the actual costs that would have been incurred for the work carried out:

Connection Work	£2114.79
Materials:	£ 688.02
Permanent Reinstatement:	£ 184.06
Overheads:	£ 985.46
<u>Direct Costs:</u>	<u>£ 158.14</u>
<u>Total</u>	<u>£4130.47</u>

7.2 Work to make Connection

- 7.2.1 Thames Water initially stated that the contractor excavated trenches of 2.4 metres length; 1.0 metre width; and 0.75 metre depth in the footpath, and 1.7 metres length; 0.8 metre width; and 1.0 metre depth in the carriageway for the connection to the 6-port manifold. Thames Water also initially stated that its contractor also excavated trenches of 2.4 metres length; 1.0 metre width; and 0.75 metre depth in the footpath, and 1.7 metres length; 0.8 metre width; and 1.0 metre depth in the carriageway for the connection to the 4-port manifold.
- 7.2.2 The contractor laid 4.1 metres of 63mm- diameter MDPE pipe to connect the 6-port manifold to the main in the carriageway; and 4.1 metres of 50mm-diameter MDPE pipe to connect the 4-port manifold to the main. It installed the manifolds in the footpath and fitted 6 meters in the 6-port manifold and 3 meters in the 4-port manifold.
- 7.2.3 Thames Water initially stated that its contractor reinstated all the areas of excavation in the footpath upon completion of the connection work.
- 7.2.4 During the course of our investigation, Thames Water provided photographic evidence that confirmed that the footpath had been excavated prior to the contractor commencing work and the water company also confirmed that its contractor had only reinstated the carriageway.
- 7.2.5 Thames Water states that its contractor took a total of 8.5 hours to complete the connection work it carried out, but does not have a record of the time taken for the reinstatement work. However, Thames Water states that the reinstatement work is not charged for on the basis of the length of time its contractor spent on site but on the basis of standard charges.

7.3 Consideration of Costs

Connection, Reinstatement and Materials Costs

- 7.3.1 Thames Water states that the connection and reinstatement work was carried out by its contractor J Browne Construction Ltd ("J Browne"). J Browne was awarded the contract following a competitive tender process. The contract was awarded based on several elements compared to all tenders received, for example: competence and ability to carry out the works; experience in industry; tender rate; and Health and Safety records and performance etc.
- 7.3.2 Thames Water says that J Browne raised charges based on a schedule of work items under the contract and has provided a breakdown of the charges. Thames Water initially stated that the charges comprised £3760.66 in respect of the excavation and connection work, £475.59 in respect of the reinstatement work and £697.33 in respect of materials. However, following our challenge, the company has advised that the appropriate charges would have been £2,114.79, £184.06 and £688.02 respectively.
- 7.3.3 Thames Water has provided a further breakdown of the charges for the connection and reinstatement work as follows.
- 7.3.4 Thames Water said that the appropriate contractor's charge to Thames Water for the excavation, pipe-laying, connection to main and installation of manifold and meters for the 4-port manifold would have been £489.24 and £1625.55 for the same work in respect of the 6-port manifold total (£2,114.79)
- 7.3.5 The company initially stated that the contractor charged Thames Water £401.61 for the reinstatement of the carriageway and £73.99 for the reinstatement of the footpath (total £475.60). These charges were raised by reference to the manifold items rather than by reference to the area to be reinstated in each surface (2.72 m² and 4.8 m² respectively).
- 7.3.6 However, during the course of our investigation, and in response to Mr Caravona's assertion that Thames Water's contractor neither excavated in nor reinstated the footpath, Thames Water has subsequently advised that the appropriate contractor's charge for reinstatement should therefore have been £184.06 in respect of the carriageway reinstatement.

7.3.7 Thames Water says that that appropriate costs of the materials would have been £688.02, but has not provided a detailed list of materials used or the cost of individual items.

Overheads

7.3.8 Thames Water states that its total overheads were £1143.60. This amount comprised £985.46 for direct costs and £158.14 for indirect costs; and was calculated on a flat rate basis.

7.3.9 The company had previously provided us with an explanation of costs included as overheads. It stated that these comprised Developer Services direct costs including: processing of applications, production of quotes, support to fieldwork staff, management of contractors, verification of contractors' work, use of buildings and vehicles etc, customer services activity in setting up accounts, network services technician costs, stores costs, Streetwork costs, Water Regulation and Approved Plumber Scheme; and Developer Services indirect costs for support services e.g. HR, finance, computer services and legal.

8 Conclusions

8.1 As set out at section 2.1 above, section 45(6) of the WIA91 entitles a company to recover the expenses reasonably incurred in carrying out the work necessary to make a connection. Ofwat's role is to determine whether those expenses were reasonably incurred in instances where this is disputed. Where the charge made to the customer exceeds the reasonable costs incurred, Ofwat will require the company to make a refund.

8.2 In considering whether the costs incurred by Thames Water for making the connection are reasonable, we have had to regard the nature of the necessary work carried out and the financial information provided by the company.

8.3 Both parties are now agreed that the contractor excavated and reinstated only the area in the carriageway. We consider that the work done in this case the work to excavate, lay the pipework and connect it to the company main and install the meters in manifolds was straightforward, as indicated by the time taken to carry out the work.

- 8.4 The work was carried out by a contractor appointed following a competitive tender. As noted at section 5.2 above, when a company has used a contractor selected following a process of competitive tender we will generally accept that the amount paid to the contractor for the work represents the expenses reasonably incurred. In this case, however, the contractor's charge, as initially advised by Thames Water for the excavation, connection and reinstatement work appeared excessive for the works actually carried by the contractor.
- 8.5 We have recently commissioned an independent review of contractors' rates and material costs for connection work. Following this review, we made further enquiries of Thames Water in relation to the charges made by their contractors in respect of this and other connections.
- 8.6 We have considered the revised costs that Thames Water has advised would have been appropriate for the actual work carried out. With regard to the extent of excavation and reinstatement the contractor actually carried out, we consider the contractor's charge to be within the range of costs identified in the review of contractors' rates, albeit at the high end.
- 8.7 In addition to the contractor's charge in respect of labour to excavate and make the connection, Thames Water has stated that the charge for materials was £688.02. At the equivalent of approximately £76.45 per connection, these costs are slightly higher than we would expect for standard connections, taking into account the independent review of material costs. However, these nine connections were provided using manifolds, which was an appropriate engineering solution for the making of this number of connections in close proximity. The materials involved in such a solution are more expensive than those for standard connections. Taking this into account we consider the costs of £688.02 to have been reasonably incurred.
- 8.8 Thames Water states it incurred overhead costs totalling £1143.60 in respect of the making of these connections, equivalent to approximately £127.07 for each connection, or over 38 per cent of the appropriate contractor's and material costs.
- 8.9 We consider this level of overhead costs to be excessive, both in comparison across the water sector and more generally across commercial organisations.

8.10 As a result of our experience of dealing with these disputes we consider that for a standard, single connection overhead costs should not generally exceed £80. However, we recognise that additional costs may be incurred where more than one connection is made. We consider that £25.00 for each additional connection would usually be sufficient to cover such costs. These assumptions are based on previous cases we have dealt with and where companies make representations we will consider their evidence regarding overhead costs actually incurred in relation to a particular case.

8.11 In this case, the administrative arrangements for carrying out these nine connections on a single site visit should have been straightforward such that we see nothing to justify additional overheads in excess of the levels we would generally expect. We therefore consider that the overheads associated with these connections should not have exceeded £280 (i.e. £80 plus 8 x £25.00).

8.12 For the reasons given above, we have concluded that the total costs reasonably incurred by Thames Water should not have exceeded:

Connection work	£2114.79
Reinstatement	£184.06
Materials	£688.02
Overheads	£280.00
Total	<u>£3266.87</u>

The amount of £4431.00 recovered by Thames Water for the making of these connections was in excess of this amount by a figure of £1164.13.

Cathryn Ross
Director of Markets and Economics
9 September 2010