Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Mayers & Associates Civil Engineering, Inc., Complainant, vs. MPower Communications Corp., dba Telepacific Communications (U5859C), Defendant.	(ECP) Case 15-11-002 (Filed November 4, 2015)

Martin Miller, Principal for, Complainant
No Appearance, MPower Communications Corp.,
dba Telepacific Communications (U5859C), Defendant

DECISION GRANTING COMPLAINT

Summary

Mayers & Associates Civil Engineering, Inc., (Complainant) filed the instant expedited complaint on November 4, 2015. Instructions to Answer and Hearing Information Notice were filed electronically on November 17, 2015, which notified MPower Communications Corp., dba Telepacific Communications (U5859C) (Defendant) of the complaint, the date and location of hearing and provided instructions to answer the complaint. Defendant neither filed an answer nor appeared at the December 14, 2015, hearing.

Complainant asserts that Defendant inappropriately billed Complainant for service after Complainant properly requested Defendant terminate the

contract for telephone and data service. We find the evidence provided at hearing shows that Complainant provided the requisite and timely notice to terminate the service contract between the parties. Defendant shall issue a statement to defendant showing a zero balance due and instruct the collection agency it is utilizing to cease collection activity on Complainant's account.

Complainant's Contentions

According to Complainant, Defendant provided telephone and data service pursuant to a contract for approximately seven years. Complainant states that the parties' service contract automatically renewed annually unless notice of termination was provided at least 60 days in advance of the automatic renewal date. Complainant asserts that it gave timely notice to Defendant that it did not want to renew, that notice was received by Defendant, but Defendant continued to bill for services past the date the contract terminated. Complainant states that it has been erroneously billed for three billing cycles for a total of $2,590.00 for service, interest and late fees after the contract had terminated. Complaint seeks an order directing Defendant to adjust its account to a zero balance.

Evidence provided by Complainant shows that Complainant notified Defendant in writing by e-mail on November 20, 2014 that it was not going to renew the contract with Defendant.[1] On the following day, November 21, 2014, Defendant responded by e-mail stating, "I will send your request not to auto renew at the end of your contract to Customer Care."[2] Complainant provided additional e-mails to and from Defendant, each reiterating that the service

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[1] E-mail from Martin Miller to Nicole Pratt on November 20, 2014.

[2] E-mail from Nicole Pratt to Martin Miller on November 21, 2014.

contract would not auto-renew and that Complainant was obtaining services from a different provider.[3] Following the termination of the parties' service contract, Complainant states it was billed for services in January. Upon inquiry Complainant states that Defendant explained it would take a full billing cycle to reflect the termination. Complainant states it continued to receive bills for an additional two cycles (a total of three billing cycles). Finally, Complainant states that when it inquired as to why Defendant continued to issue bill, Defendant claimed Complainant had not terminated or disconnected. As of the date of hearing, Complainant states it was receiving notices regarding the outstanding balance from a collection firm and that the amount Defendant had issued bills totaling $2,590.00.

Discussion

We find the evidence provided at hearing shows that Complainant provided the requisite and timely notice to terminate the service contract between the parties. It is unclear why Defendant continued to bill Complainant after the contract period ended but it appears there may have been some miscommunication between Defendant's Account Manager and Customer Care departments.

Defendant shall issue a statement to defendant showing a zero balance due and instruct the collection agency it is utilizing to cease collection activity on Complainant's account. Pursuant to Rule 4.5(h) of Commissioner's Rules of Practice and Procedure, Complainant has the right to file an application for rehearing.

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[3] Defendant provided the "DID numbers" that Complainant needed to port to its new carrier.

Assignment of Proceeding

Carla J. Peterman is the assigned Commissioner and Katherine Kwan MacDonald is the assigned Administrative Law Judge in this proceeding.

O R D E R

IT IS ORDERED that:

1. Mayers & Associates Civil Engineering, Inc.'s Complaint is granted.
2. MPower Communications Corp., dba Telepacific Communications (U5859C), shall adjust the balance due for Mayers & Associates Civil Engineering, Inc. to zero due.
3. MPower Communications Corp., dba Telepacific Communications (U5859C) shall cease any and all collection activity on the Mayers & Associates Civil Engineering, Inc. account.
4. The relief requested is granted.
5. Case 15-11-002 is closed.

This order is effective today.

Dated _____, at San Francisco, California.