

July 11, 2006

VIA EMAIL AND US MAIL

Filing Center
Oregon Public Utility Commission
550 Capitol Street NE #215
PO Box 2148
Salem, OR 97308-2148

Re: RIO Communications Complaint

Dear Sir or Madam:

Enclosed for filing are the original and five copies of RIO Communications, Inc.'s Complaint against InfoStructure. Please contact me with any questions.

Very truly yours,


Wendy L. Martin

Enclosures

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 Umpqua Indian Development Corporation
4 (UIDC), Telecommunications Division, a
5 federally chartered corporation, dba RIO
6 COMMUNICATIONS, INC.,

7 Complainant,

8 v.

9 PRIME TIME VENTURES LLC dba
10 INFOSTRUCTURE

11 Defendant.

12 **COMPLAINT**

13 **INTRODUCTION**

14 1. Complainant RIO Communications, Inc. ("RIO") brings this Complaint against
15 Defendant Prime Ventures LLC dba InfoStructure ("InfoStructure") for violating state and
16 federal law by tampering with RIOs equipment located in a Qwest central office, vandalizing
17 that equipment and intentionally transferring one of RIOs customers to InfoStructure service
18 against that customer's express wishes. Specifically, in February 2006, without authorization
19 from the customer, InfoStructure tampered with and disabled RIO's DSL service to its customer
20 Mellelo Coffee Roasters ("Mellelo"), ordered a CLEC to CLEC service conversion from Qwest,
21 and substituted its own InfoStructure equipment and service. InfoStructure's blatant and
22 egregious "slamming" violated 47 U.S.C. § 258(a), administered by this Commissioner pursuant
23 to 47 C.F.R. § 64.1110 and ORS 759.730. As a direct result of InfoStructure's illegal and
24 improper actions, RIO has suffered damages. Accordingly, RIO respectfully requests that the
25 Oregon Public Utility Commission ("Commission") make all requisite findings and take all
26 actions necessary to prevent further violations by InfoStructure and to compel Infostructure to
comply with the federal and state laws governing telecommunications services in the state of
Oregon

1 **PARTIES**

2 2. Complainant RIO is the telecommunications division of Umpqua Indian
3 Development Corporation (UIDC), a federally chartered corporation, engaged in the business of
4 providing telecommunications, Internet access, and Web management services. RIO's
5 headquarters are located at 520 SE Spruce, Roseburg, OR 97470-3134.

6 3. Defendant InfoStructure is a telecommunications utility whose service operations
7 in the State of Oregon are regulated by this Commission. See OPUC Order No. 03-488 (granting
8 application for certificate of authority and classification as a CLEC). InfoStructure's
9 headquarters are located at 611 Siskiyou Blvd., Suite 2, Ashland, OR 97502

10 **JURISDICTION**

11 4. The Commission has been empowered by the legislature under ORS 758.400, *et*
12 *seq.*, to supervise and regulate every telecommunications utility in the state of Oregon, and to do
13 all things necessary and convenient in the exercise of such power and jurisdiction.
14 ORS 756.040(2).

15 5. ORS 756.500(1) confers upon the Commission jurisdiction over complaints
16 against any person whose business or activities are regulated by one or more statutes subject to
17 Commission jurisdiction.

18 6. The provisions of the law governing the regulation of the provision of service by
19 telecommunications utilities shall be liberally construed with a view to the public welfare and
20 substantial justice between customers and telecommunications utilities. ORS 756.062(2).

21 7. Pursuant to 47 C.F.R. § 64.1110, state regulatory commissions may, upon notice
22 to the Federal Communication Commission ("FCC"), administer the FCC's unauthorized carrier
23 change rules and remedies. This Commission has notified the FCC of its intent to administer
24 federal rules relating to unauthorized carrier charges.

25 **THE FACTS**

26 8. Mellelo operates two internet cafes in Medford, Oregon, one of which is located

1 at 229 West Main Street. At all times relevant to this Complaint, Cherie Frick was the General
2 Manager for this and Mellelo's other Medford location.

3 9. RIO has provided customer Mellelo with DSL and HotSpot wireless service at
4 both locations in Medford, Oregon since July 13, 2004.

5 10. On February 14, 2006, Jeff Rhoden, one of InfoStructure's three owners, arrived
6 at Mellelo's West Main location and represented to a Mellelo employee that he was there to
7 install service. The Mellelo employee called Mellelo general manager Cherie Frick, who was
8 working at the other Mellelo location, and Ms. Frick directed the employee to tell Rhoden that
9 InfoStructure was not authorized to install any service and should not proceed.

10 11. Rhoden contacted Ms. Frick on the morning of February 15, 2006 and informed her
11 that Mellelo's West Main location was without DSL service and that he would like to proceed
12 with installing InfoStructure's equipment and service. Ms. Frick repeated her direction that he
13 not proceed with the installation. Instead, InfoStructure sent a representative to complete the
14 service installation at 10:30 a.m. on February 15, 2006. Neither Ms. Frick nor any other Melleo
15 employee gave InfoStructure permission to proceed with the installation orally or in writing.

16 12. On February 15, 2006 at 12:30 p.m., RIO was contacted by Cherie Frick of
17 Mellelo's regarding problems with RIO's DSL service at the West Main location. Ms. Frick also
18 told RIO that InfoStructure had been frequently visiting that location to solicit business, and had
19 installed some equipment without her permission.

20 13. Following, Ms. Frick's service complaint, RIO representatives arrived promptly at
21 Mellelo's West Main location and immediately discovered that the cause of the service problems
22 was that InfoStructure had (1) removed RIO's modem from service and placed it on a shelf in a
23 storage room; (2) substituted its own modem and connected it to RIO's Linksys wireless router;
24 (3) disconnected the wires connecting RIO's Mellelo circuit to Qwest's central office.

25 14. RIO representatives determined that they would not be able to repair the circuit
26 without placing an order to Qwest. Upon making contact with Qwest regarding the status of the

1 Mellelo circuit, RIO learned that InfoStructure had contacted Qwest on February 10, 2005 to
2 order a "CLEC to CLEC conversion." Mellelo had not authorized this change of service request.

3 15. Pursuant to standard Qwest procedure, InfoStructure had three days to provide
4 Qwest with a valid "Letter of Authorization" ("LOA") indicating that InfoStructure had obtained
5 permission from Mellelo to act on its behalf. InfoStructure provided Qwest with an LOA
6 supposedly signed by a Mellelo agent, but then subsequently informed Qwest that it would not
7 contest having Mellelo's service go back to RIO.

8 **RELIEF**

9 RIO respectfully requests that the Commission issue an order finding that InfoStructure
10 willfully and intentionally submitted and executed a change of Mellelo's DSL service from RIO
11 to InfoStructure without Mellelo's permission and without a valid LOA, thereby violating the
12 federal and Oregon anti-slamming laws. Further, RIO requests that this Commission impose
13 appropriate penalties on InfoStructure and order InfoStructure to desist from any further such
14 violations.

15 RESPECTFULLY SUBMITTED this 11th day of July 2006.

16 ATER WYNNE LLP

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