

December 12, 2014

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, DC 20554

Re: AMV Gateway, LLC – Request for Review of Decision of the Universal Service Administrator, WCB Docket Nos. 06-122 and 97-21

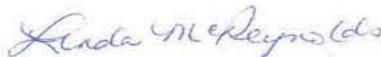
Dear Secretary Dortch:

On behalf of AMV Gateway, LLC ("AMV"), please find attached a redacted, public version of a supplemental filing requested by Commission staff in regards to AMV's Request for Review of Decision of the Universal Service Administrator, WCB Docket Nos. 06-122 and 97-21.

AMV, by its counsel and pursuant to Sections 0.457 and 0.459 of the Commission's Rules 47 C.F.R. §§ 0.457, 0.459, respectfully request confidential treatment of certain information provided in this supplemental filing because this information is competitively sensitive and its disclosure would have a negative competitive impact on AMV were it made publicly available. Accordingly, the attached public version of this supplemental filing has been marked "REDACTED – FOR PUBLIC INSPECTION." AMV provides justification for the confidential treatment of this information in Attachment 1 to this letter. AMV is also submitting, via hand deliver under separate cover, a confidential version of this supplemental filing.

Should you have any questions please do not hesitate to contact me.

Respectfully submitted,



Linda McReynolds

Attachment 1

MARASHLIAN & DONAHUE, LLC

TELEPHONE: (703) 714-1300
FACSIMILE: (703) 714-1330
EMAIL: MAIL@COMMLAWGROUP.COM
WEB: WWW.COMMLAWGROUP.COM

THE COMMLAW GROUP
1420 SPRING HILL ROAD
SUITE 401
MCLEAN, VIRGINIA 22102

Attachment 1

Request for Confidentiality

AMV Gateway, LLC ("AMV"), respectfully requests confidential treatment of certain information provided with Richard Duke's December 12, 2014 affidavit filed in WCB Docket Nos. 06-122, 96-45 and 97-21 ("Affidavit") because this information is competitively sensitive, and its disclosure would have a negative competitive impact on AMV were it made publicly available. Such information would not ordinarily be made available to the public, and should be afforded confidential treatment under 47 C.F.R. §§ 0.457 and 0.459.

47 C.F.R. §0.457

Specific information in the Affidavit is confidential and proprietary to AMV as "trade secrets and commercial or financial information" under Section 47 C.F.R. §0.457(d). Disclosure of such information to the public would risk revealing company-sensitive proprietary information in connection with AMV's ongoing business and operations.

47 C.F.R. §0.459

Specific information in the Affidavit is also subject to protection under 47 C.F.R. §0.459, as demonstrated below.

Information for which confidential treatment is sought

AMV requests that specific information in the Affidavit be treated on a confidential basis under Exemption 4 of the Freedom of Information Act. The information designated as confidential contains information already submitted confidentiality and submitted again for the convenience of the Commission in addition to new information. This information includes AMV pricing information, cost information, and customer information (included as Exhibits A, B, C, D, E, and F). This information is competitively sensitive information that AMV maintains as confidential and is not normally made available to the public. Release of the information would have a substantial negative impact on AMV since it would provide competitors with commercially sensitive information. The non-redacted version of AMV's filing is marked as "**CONFIDENTIAL – NOT FOR PUBLIC INSPECTION.**" The redacted version of AMV's filing is marked as "**REDACTED – FOR PUBLIC INSPECTION.**"

Commission proceeding in which the information was submitted

The information is being submitted upon request of Commission staff as a supplement to AMV's Request for Review of Decision of the Universal Service Administrator, WCB Docket Nos. 06-122, 96-45 and 97-21.

Degree to which the information in question is commercial or financial, or contains a trade secret or is privileged

The information designated as confidential includes sensitive AMV billing records and customer service orders and agreements as well as invoices AMV received from its suppliers. As noted above, the data is competitively sensitive information which is not normally released to the public as such release would have a substantial negative competitive impact on AMV.

Degree to which the information concerns a service that is subject to competition and manner in which disclosure of the information could result in substantial harm

The market for the television production and editing services that AMV provides is competitive and thus the release of this confidential and proprietary information would cause AMV competitive harm by allowing its competitors to become aware of sensitive proprietary information regarding the operation of AMV's business at a level of detail not currently available to the public.

Measures taken by AMV to prevent unauthorized disclosure; and availability of the information to the public and extent of any previous disclosures of the information to third parties

AMV has treated and continues to treat the non-public information disclosed with this Affidavit as confidential and has protected it from public disclosure to parties outside of the company.

Justification of the period during which AMV asserts that the material should not be available for public disclosure

AMV cannot determine at this time any date on which this information should not be considered confidential.

Other information AMV believes may be useful in assessing whether its request for confidentiality should be granted

Under applicable Commission decisions, the information in question should be withheld from public disclosure.

REDACTED FOR PUBLIC INSPECTION

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
AMV Gateway, LLC Request for) WC Docket No. 06-122
Review of a Decision of the)
Universal Service Administrator)

**AFFIDAVIT
of
RICHARD DUKE**

Richard Duke, being duly sworn, deposes and says that:

1. I am the President of AMV Gateway, LLC (“AMV”).
2. On June 20, 2012, AMV submitted its response to USAC’s Internal Audit Division’s draft findings, wherein, among other things, the Internal Audit Division reclassified some of AMV’s revenues as telecommunications.
3. As I set out in greater detail in my June 20, 2013 affidavit submitted in support of AMV’s response, AMV provides video editing and TV production work on live and recorded television shows, and it does not provide telecommunications services.
4. AMV explained that while it uses the telecommunications it purchases from third-party suppliers ([REDACTED]) to provide its TV production and editing services, AMV does not offer “telecommunications,” as defined in the Communications Act to its customers.
5. I am familiar with and understand the definition of “telecommunications” as set forth in the Communications Act of 1934, as amended (the “Act”).

REDACTED FOR PUBLIC INSPECTION

6. I understand that “telecommunications” as defined by the Act is “the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.”

7. *AMV changes the form and content* of live or recorded video it receives from customers before sending the final product to the destination specified by the customer.

8. AMV changes the form and content of video whether it receives the video via a one-way circuit that connects AMV’s production facility to its customer or whether it receives the video via an earth station at the AMV facility.

9. Further, whether AMV delivers the finished product via a one-way fiber connection to a customer or via satellite, AMV has changed the form and content of that video before delivering it to its final destination.

10. In my June 20, 2013 affidavit at paragraphs 87 through 105, I described in detail the ways in which AMV changes the form and content of video.

11. The services provided by AMV are exactly the same services provided by any broadcast network. AMV provides recording, playback, editing, duplication, encoding and quality control services for customers’ material to further complete show material ultimately destined for public consumption.

12. AMV’s use of fiber and satellite to receive live or recorded video for production work and to send the final programming as modified by AMV is necessary for its services.

13. AMV could not perform its production services effectively without the ability to deliver the final product in a timely manner to its destination.

REDACTED FOR PUBLIC INSPECTION

14. In some cases, once AMV has completed its work on the live or recorded video footage, it must deliver that changed content to a satellite for distribution. Without using earth stations at its production facility, AMV would not be able to timely deliver the video to its destination after completing the editing and production work.

AMV Does Not Provide Telecommunications Service by Sending and Receiving Material It Changes by One-Way Fiber Loops.

15. As the record shows, the fiber is always only one-way. That is, it is either one-way from the customer to AMV or one-way from AMV to the customer. It is *never both*.

16. For the video processing to occur, a video encoder is placed at one end of the fiber and a video decoder is placed at the other end of that fiber – in effect limiting the flow of information to one direction only.

17. The [REDACTED] invoices to AMV, attached as Exhibits A and C, show that AMV's fiber loops are always only one-way. The description of service and features codes on page 3 of each monthly invoice show a separate charge for a fiber loop originating at the customer's premises (in the case of Exhibit A at [REDACTED] and in the case of Exhibit C at [REDACTED]) and a fiber loop originating at AMV (in the case of both Exhibit A and C).

18. AMV's invoices to its customers for the fiber loops, attached as Exhibits B and D, demonstrate that AMV merely seeks to recover the costs of the fiber loops; it does not resell the loops or generate profit from them (compare Exhibit A to Exhibit B, [REDACTED], and compare Exhibit C to Exhibit D, [REDACTED]).

19. AMV's customers cannot and do not use that fiber loop for any purpose other than to send video to AMV for production services and quality control.

REDACTED FOR PUBLIC INSPECTION

20. While it may be possible for a telecommunications company to provide two-way communications via fiber circuits, AMV must procure separate, single direction circuits from a telecommunications carrier.

21. AMV cannot provide two-way communications for any of its services. Video can be made to travel either to our facility OR from our facility but not both directions simultaneously.

22. Providing the fiber to the customer is a business necessity. Access via Fiber allows AMV to promptly attend to a customer's needs. Shipping or messengering a tape is too slow in today's environment. Ensuring that customers have that high-speed connection with AMV helps AMV remain competitive by serving customer needs, and it helps AMV retain customers once the fiber connection is established.

23. The fiber component allows AMV to receive the customer's video and later deliver the enhanced product in a timely manner, which is critical to customers with increasingly fast-paced television production schedules.

24. Without a direct, reliable connection to or from the customer, the customer would take its business elsewhere or move the services provided by AMV in-house.

25. Once the fiber is installed, the likelihood of customer retention and repeat business increases dramatically.

26. As I stated in my June 20, 2013 affidavit at paragraphs 110 through 114, AMV provides its customers with a detailed, itemized bill in an effort to transparently show its customers the overhead costs that makeup their bill.

27. AMV does not resell the fiber as telecommunications.

REDACTED FOR PUBLIC INSPECTION

28. Its underlying providers ([REDACTED]) recognize that AMV is not reselling telecommunications.

29. AMV's underlying suppliers treat it as an end user and pass through USF surcharges by which AMV pays indirect USF contributions (See Exhibits A and C).

30. AMV does not provide its carrier/s with reseller exemption certificate/s.

31. Rather, AMV acts as a purchasing agent for its customers. For example, there are occasions where the annual budgeting or some circumstance does not allow for a company to purchase the fiber directly, but there is a need to deliver programming. In these situations, AMV will install a fiber solution at the company's request.

32. However, unlike a telecommunications provider or a reseller of telecommunications, AMV remains involved in providing its underlying production services to a client throughout the entire time a fiber solution remains in place.

33. Unlike a telecommunications provider, the continued provisioning of a fiber connection between AMV and the customer is solely dependent on an ongoing business relationship between AMV and its customer based on the production services AMV provides. If AMV ceases to provide production services to a customer, the need for a fiber connection vanishes, and AMV would discontinue purchasing service from [REDACTED] (or any other telecommunications provider) to connect the customer with AMV.

34. Any upcharge applied to the cost of the fiber solution covers only the administrative overhead costs associated with securing the fiber solution and is de minimis to the company's overall profitability. This is supported by comparing the sample [REDACTED] invoices to AMV, Exhibits A and C, with the sample AMV invoices to its customers, Exhibits B and D.

REDACTED FOR PUBLIC INSPECTION

35. Where a customer does not want to negotiate transit with a carrier itself, AMV will negotiate the installation and fiber charges with a carrier to ensure AMV can provide reliable and timely production and post-production services to its client.

36. AMV's costs associated with the fiber are overhead expenses that are considered in its pricing.

37. AMV could not be profitable if it didn't recover such expenses.

38. As a result, AMV bills its customers a monthly fee for the fiber cost.

39. AMV's customers appreciate the fiber feature and understand that it is a part of the service expense.

40. No customer believes AMV is reselling the fiber as telecommunications.

41. Finally, as I described in my June 20, 2013 affidavit at paragraphs 87 through 105, AMV alters the form and content of the material AMV receives from its clients.

42. AMV provides services to its customers that are required by FCC regulations, including redaction of indecent audio and insertion of closed captioning.

43. AMV also provides other production and post-production services to its clients, including insertion of advertising and Neilson coding.

44. It is my understanding of the definition of "telecommunications" in the Act that these services make AMV an end-user of telecommunications, not a seller of telecommunications.

Like the Material AMV Sends and Receives on Its Fiber Loops, Material AMV Sends and Receives by Satellite is Always Changed by AMV.

45. In a meeting with FCC staff, the staff noted that the nature of satellite communications is always one-way communications, which means one-way satellite communications could be classified as telecommunications.

REDACTED FOR PUBLIC INSPECTION

46. However, like material sent and received on AMV's fiber loops, AMV changes all the material it sends and receives by satellite.

47. The material AMV sends and receives by satellite is subject to the same production and post-production changes by AMV that I mentioned above and that I described in my June 20, 2013 affidavit in paragraphs 87 through 105.

48. It is, therefore, my understanding that AMV does not provide telecommunications services when it sends or receives material by satellite because the definition of telecommunications in the Act requires that telecommunications services not be subject to change during transit while AMV's business is to provide services that change the material it sends and receives.

49. Like AMV's provision of fiber loops, AMV's use of its satellite earth station is done to ensure it can provide reliable, timely service to its customers.

50. AMV might send a converted signal via satellite using the satellite services AMV has purchased for its own use, or the signal might travel via satellite services AMV's customers have purchased directly from a satellite service provider for their own purposes.

51. The monthly subscription price of the "uplink" service is higher where AMV uses its own satellite services versus where the customer transmits the signal on its own satellite services.

52. Often the telecommunications components represent the highest expenses that we incur. AMV is agnostic as to whether a customer uses AMV to get a carrier to provide transport or whether the customer works directly with a carrier to provide transport

REDACTED FOR PUBLIC INSPECTION

because the sole purpose of establishing rapid, reliable transport from the customer to AMV or *vice versa* is to support AMV's production services.

53. AMV provides detailed invoices to its clients, including invoices for satellite uplink service, to help clients evaluate whether they can more efficiently provide their own transport services or whether AMV can provide service more cost effectively as a purchasing agent.

54. Unlike a telecommunications provider, the continued provisioning of satellite service between AMV and a customer depends entirely on the ongoing business relationship between AMV and its customer based on the production services AMV provides. If AMV stops providing production services to a customer, the need for satellite service ceases, and AMV would discontinue purchasing service from a telecommunications provider to connect the customer with AMV.

55. Like AMV's provision of fiber loops, any markup in satellite costs covers only administrative costs incurred in securing satellite transit.

56. And, while recovering overhead expenses like satellite costs remain essential for AMV to remain competitive in the marketplace, the revenue generated from satellite transit is de minimis as compared to the company's revenue.

57. Finally, the revenue generated from satellite transit continues to shrink as AMV and industry norms shift toward delivery of content via Internet connection. While I recognize that this shift does not necessarily weigh on the classification of the satellite services utilized by AMV and its customers, this shift illustrates that AMV never has provided and does not now provide telecommunications services; rather, it is a

REDACTED FOR PUBLIC INSPECTION

production services provider that uses telecommunications services as an end-user to facilitate the provision of its production services to its customers.

58. As mentioned above, AMV does not use the terms “uplink” and “downlink” to mean mere transport; rather, the terms include a suite of services that are primarily related to AMV’s production services (See Exhibits E and F, letters and service order confirmations to two AMV customers describing “uplink” services as including NAVE encoding, Teletrax embedding, evergreen playback, closed caption insertion, and other services).

59. While it is still AMV’s position that it does not provide telecommunications services, AMV, at the request of Commission staff, reviewed the costs associated with what its invoice terms “uplink” and “downlink” to evaluate what portion of its invoice charges could apply to transport of the customer’s product to AMV or AMV’s finished product to the customer.

60. AMV did not initially bill customers for itemized “transport fees” distinct from its “uplink” and “downlink” charges; however, based on a review of the services associated with such charges, AMV would apply a [REDACTED] transport fee per uplink charge and a [REDACTED] transport fee per downlink.

61. AMV offers satellite transport services to ensure timely receipt of the customer’s product, to ensure timely delivery of AMV’s finished product to the customer, and to promote customer retention.

62. The small transport fees for uplink and downlink are also supported by AMV invoices submitted during the audit process, which AMV will attach again with this affidavit.

REDACTED FOR PUBLIC INSPECTION

63. For example, AMV's invoices to [REDACTED], submitted as Attachment 1 to AMV's USAC audit response and attached hereto as Exhibit F, illustrate that AMV's invoice term "uplink" includes services such as quality control monitoring of the show's feed; insertion of promos, closed captioning, and Neilson coding; and conversion of the feed to a suitable format for distribution (this is done by AMV to avoid multiple conversions in transit that can degrade quality) (See also Exhibit E).

64. The difference between the uplink and downlink transport fees is caused by the significant difference in cost between the equipment necessary to provide an uplink feed as compared to the cost of the equipment necessary to receive a downlink feed.

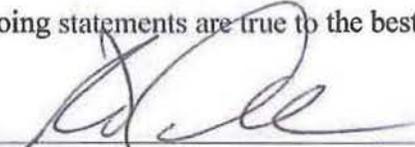
65. The cost of the equipment needed to provide uplink feeds can range from [REDACTED].

66. On the other hand, a dish to receive a downlink feed can cost as little as [REDACTED].

67. The transport fees AMV calculated reflect only the recovery of costs associated with purchasing and maintaining AMV's satellite facilities because AMV does not mark-up its transportation costs and does not seek to profit from the sale of satellite transportation services to its customers.

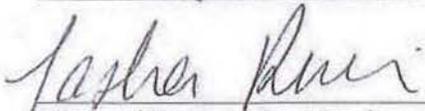
[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Under penalty of perjury, I hereby affirm that the foregoing statements are true to the best of my knowledge, information and belief.


Richard Duke

State of NY)
County of NY) ss.:

The foregoing instrument was acknowledged before me this 11 day of December 2014 by Richard Duke.


Notary / Registration Number 01R16122616

2/14/17
My Commission Expires

TASHA RIVERA
Notary Public, State of New York
Registration #01R16122616
Qualified in Bronx County
Commission Expires February 14, 2017

Exhibit A

Pages Intentionally Omitted

Exhibit B

Pages Intentionally Omitted

Exhibit C

Pages Intentionally Omitted

Exhibit D

Pages Intentionally Omitted

Exhibit E

Pages Intentionally Omitted

Exhibit F

Pages Intentionally Omitted

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
AMV Gateway, LLC Request for)
Review of a Decision of the)
Universal Service Administrator)

CERTIFICATE OF SERVICE

I, Amanda Engel, hereby state and affirm that copies of Richard Duke's affidavit filed as a supplemental filing, as requested by Commission staff, to AMV Gateway, LLC's Request for Review of a Decision of the Universal Service Administrator, was served upon the following via hand delivery for the confidential version and electronically for the public version on this 12th day of December 2014, to the following:

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, DC 20554

I also served the confidential version of Richard Duke's affidavit filed as a supplemental filing to AMV Gateway, LLC's Request for Review of a Decision of the Universal Service Administrator via Email, this 12th day of December 2014, to the following:

Dave Capozzi, General Counsel
Universal Service Administrative Company
2000 L Street NW
Suite 200
Washington, DC 20036
(dcapozzi@usac.org)

Jen Crowe, Senior Internal Auditor
Universal Service Administrative Company
2000 L Street NW
Suite 200
Washington, DC 20036

jcrowe@usac.org)

Chang-Hua Chen, Senior Financial Analyst of Contributions
Universal Service Administrative Company
2000 L Street NW
Suite 200
Washington, DC 20036
(cchen@usac.org)

Nikki-Blair Carpenter, Supervisor of Internal Audit
Universal Service Administrative Company
2000 L Street NW
Suite 200
Washington, DC 20036
(ncarpenter@usac.org)

Charles Salvator, Senior Manager of Internal Audit
Universal Service Administrative Company
2000 L Street NW
Suite 200
Washington, DC 20036
(csalvator@usac.org)

Chin Yoo
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554
(chin.yoo@fcc.gov)

Carol Pomponio
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554
(carol.pomponio@fcc.gov)

Claudia Fox
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554
(Claudia.fox@fcc.gov)


Amanda Engel