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UNITED STATES OF AMERICA DEPARTMENT OF TRANSPORTATION
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY 99 JAN 12 PM 3:47
WASHINGTON, D.C. DOCKET SECTION

LOVE FIELD SERVICE : Docket OST-98-4363
INTERPRETATION PROCEEDING :

**THE CITY OF FORT WORTH'S PETITION FOR RECONSIDERATION
OF ORDER 98-12-28**

TO THE UNITED STATES DEPARTMENT OF TRANSPORTATION:

Pursuant to Rule 37 of the Department of Transportation's Rules of Practice (14 CFR Section 302.37), the City of Fort Worth respectfully petitions the Department for reconsideration of Order 98-12-28, issued on December 22, 1998. Specifically, Fort Worth requests the Department to reconsider its decision to deny Fort Worth's requests for disclosure of ex parte communications between the Department and parties to this proceeding.

I.

Fort Worth has made several attempts to obtain from the Department all ex parte communications between the Department and parties to this proceeding, including Continental Airlines and Legend Airlines. In its Order 98-12-28, the Department again refused to produce such documents.

To justify its denial, the Department asserts that Fort Worth has "provided no evidence of bias or improper conduct" (Order 98-12-28, at 18) and that Fort Worth "cites no facts indicating that any ex parte communications occurred." (Order 98-12-28, at 14). Although Fort Worth believes the administrative record supports its position—based on discovery obtained from Continental and Legend—Fort Worth notes the irony of the Department's position. In essence,

the Department refuses to produce the evidence of bias because it contends that Fort Worth has no evidence of bias!

It is also no excuse that Fort Worth has obtained limited discovery from Legend and Continental. Several critical ex parte communications between the Department and those parties have "disappeared". Among the missing items is a June 28th draft of the Department's response to oral questions posed to it by Continental Express', which was sent by Tom Ray to Rebecca Cox, lobbyist for Continental. Although Rebecca Cox testified she received the letter from Tom Ray on June 28, 1998, Continental claims the document has been lost. As a result, if Fort Worth is to obtain this key evidence, it must be from the Department.

II.

Right in the middle of of this proceeding, in violation of its own rules, the Department engaged in ex parte communications with Fort Worth's adversaries about issues in this case. Such conduct denies Fort Worth procedural due process.

WHEREFORE, PREMISES CONSIDERED, the City of Fort Worth petitions the Department to reconsider its Order 98-12-28 and fully disclose all communications between the Department and parties to this proceeding, as requested by Fort Worth's Requests for Disclosure.

Respectfully submitted,


CITY OF FORT WORTH

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