

3d

BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

EXHIBIT 100-8-14
10/8/98

LOVE FIELD SERVICE
INTERPRETATION PROCEEDING

Docket No. OST-98-4363

CITY OF DALLAS ANSWER IN
OPPOSITION TO MOTION FOR ORAL ARGUMENT

Communications concerning this document should be addressed to:

Angela Washington
Interim City Attorney
7BN City Hall
1500 Marilla Street
Dallas, Texas 75201
(214) 670-3510

Rise J. Peters *
Jeffrey A. Schwarz
Pablo O. Nüesch
Spiegel & McDiarmid
1350 New York Avenue, N.W.
Washington, D.C. 20005
(202) 879-4000

James E. Coleman, Jr.
Elizabeth D. Whitaker
Lyndon F. Bittle
Carrington Coleman Sloman &
Blumenthal, L.L.P.
200 Crescent Court, Suite 150
Dallas, Texas 75201-1848
(214) 855-3000

Attorneys for the City of Dallas

October 8, 1998

* Designated to receive service

BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

LOVE FIELD SERVICE
INTERPRETATION PROCEEDING

Docket No. OST-98-4363

**CITY OF DALLAS ANSWER IN
OPPOSITION TO MOTION FOR ORAL ARGUMENT**

Pursuant to Rule 18(c), DOT Rules of Practice, 14 C.F.R. § 302.18(c), the City of Dallas (“Dallas”) hereby files this Answer in Opposition to Motion for Oral Argument filed by the Dallas-Fort Worth International Airport Board (“DFW Board”), and served upon the City of Dallas on October 6, 1998.

Dallas believes that scheduling an oral hearing would unnecessarily delay this proceeding. The Department already has indicated its intention to issue a decision “promptly.” *See Order 98-8-29, Love Field Proceeding*, Docket No. OST-98-4363, at 5 (“We also wish to issue a ruling promptly . . . We are therefore establishing a schedule for interested parties to submit their views which will enable us to issue an opinion soon”), and *Order 98-9-5, Love Field Proceeding*, Docket No. OST-98-4363, at 4 (“there is good cause for us ruling on the federal law issues promptly”). Scheduling and conducting oral arguments will only delay a final decision by the Department, which in turn may deny state and federal courts the opportunity to consider the Department’s findings on these important federal aviation issues.

The Department has received comments and reply comments from at least fourteen different interested parties. The issues have been fully and extensively briefed. Voluminous

amounts of evidence have been presented to the Department for its consideration. Additional oral arguments will not substantively add to these proceedings. In fact, given the number of parties that have made an appearance before the Department, oral arguments may serve only to confuse rather than clarify the issues in this case.

The Department's denial of the Motion for Oral Arguments will not take away or deny due process safeguards. First, all interested parties have had ample opportunity to be heard in these proceedings. Second, "oral argument[s are] not always helpful, nor [are they] the *sine qua non* of fair disposition." *George W. Bennett Bryson & Co. v. Norton Lilly & Co.*, 502 F.2d 1045, 1050 (5th Cir. 1974). "[D]ue process of law has never been a term of fixed and invariable content. This is true with reference to oral arguments . . ." *Federal Communications Commission v. WJR, The Goodwill Station, Inc.*, 337 U.S. 265, 275 (1949). Finally, neither the Department's organic legislation, the Federal Aviation Act, nor the Federal Administrative Procedures Act require the Department to entertain oral arguments in this proceeding.

For these reasons, Dallas respectfully asks that the Department deny the DFW Board's Motion for Oral Arguments. Dallas further asks that the Department deny American Airlines' request to allow oral arguments. American Reply Comments at 28. Dallas would urge the Department to proceed with its original schedule and rule on the federal law issues promptly.

Respectfully submitted,



Rise J. Peters
Jeffrey A. Schwarz
Pablo O. Nüesch
Spiegel & McDiarmid
1350 New York Avenue, N.W.
Suite 1100
Washington, D.C. 20005
(202) 879-4000
FAX (202) 393-2866

James E. Coleman, Jr.
Elizabeth D. Whitaker
Lyndon F. Bittle
Carrington Coleman Sloman &
Blumenthal, L.L.P.
200 Crescent Court, Suite 150
Dallas, Texas 75201-1848
(214) 855-3000
FAX (214) 855-1333

Attorneys for the City of Dallas

October 8, 1998