

2. On September 5, 2008, the Air Transport Association of America, Inc. (“ATA”) filed its pending petition for review of the Order issued by DOT and FAA on July 8, 2008 (docketed as Case No. 08-1293).

3. ACI-NA represents the state, regional and local governmental bodies that own and operate the principal airports served by scheduled air carriers in the United States. ACI-NA member airports handle approximately 95% of the domestic and international air passenger traffic in the United States. ACI-NA submitted comments on behalf of its members in the underlying rulemaking proceeding before the DOT and FAA that culminated in the Order which is the subject of ATA’s petition for review. ACI-NA participated in that rulemaking proceeding and seeks to intervene in this appeal because the issues presented – including, notably, the issue of whether the Airline Deregulation Act prevents airport proprietors from using their rate-setting powers to create economic incentives for air carriers to alter their use of congested airports – are of general applicability to commercial airports and broadly affect ACI-NA’s members. ACI-NA therefore has a direct and substantial interest in this appeal.

4. No party to this appeal other than ACI-NA will adequately represent the interests of airport proprietors throughout the country. By offering an industry-wide perspective, ACI-NA can help the Court to better understand the implications of the DOT/FAA Order. ACI-NA has frequently represented the interests of

airport owners and operators in proceedings involving the laws and policies at issue here, both before the DOT and in this Court. ACI-NA commented during the DOT's original rulemaking proceedings on what became DOT's Policy Regarding Airport Rates and Charges and ACI-NA intervened when this Court first considered the DOT's Policy in *Air Transport Ass'n of America v. DOT*, 119 F.3d 38, 129 F.3d 625 (D.C. Cir. 1997). ACI-NA has intervened in currently pending appeals before this Court involving airport rate-setting issues at Los Angeles International Airport, *Alaska Airlines, Inc. v. Department of Transportation*, Case No. 07-1209 (and consolidated appeals), and intervened before the DOT in the underlying adjudicatory proceeding under 49 U.S.C. § 47129, *Alaska Airlines, Inc. v. Los Angeles World Airports*, Docket OST-2007-27331. In the past, ACI-NA has frequently intervened before the DOT and in this Court in other airport rate-setting proceedings under 49 U.S.C. § 47129, including: *Los Angeles Int'l Airports Rates Proceeding*, Docket OST-97-2329 and *Second Los Angeles Int'l Airports Rates Proceeding*, Docket OST-95-474, and two related appeals, *City of Los Angeles v. DOT*, 103 F.3d 1027 (D.C. Cir. 1997), and *City of Los Angeles v. DOT*, 165 F.3d 972 (D.C. Cir. 1999); *Miami Int'l Airport Rates and Charges Proceeding*, Docket OST-96-1965, and *Air Canada v. DOT*, 148 F.3d 1142 (D.C. Cir. 1998); and *Brendan Airways, LLC v. The Port Auth. of New York and New Jersey*, Docket

OST-05-20407, and *Port Auth. of New York and New Jersey v. DOT*, 479 F.3d 21 (D.C. Cir. 2007).

5. Intervention by ACI-NA, acting on behalf of its many member airports, would be more efficient than having a number of individual airport proprietors intervene in this appeal.

6. Counsel for ATA and for both the DOT and FAA have authorized us to represent to the Court that they have no objection to ACI-NA's intervention in this appeal.

7. A corporate disclosure statement under Circuit Rule 26.1 is attached.

For all of these reasons, ACI-NA respectfully asks for leave to intervene in this appeal.

By its attorneys,



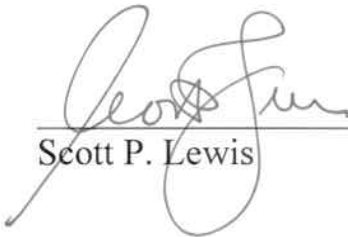
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September 10, 2008

FED. R. APP. P. 26.1 CORPORATE DISCLOSURE STATEMENT

Airports Council International – North America (“ACI-NA”) is a non-profit “trade association” within the meaning of Circuit Rule 26.1 that represents the state, regional and local governmental bodies which own and operate the principal airports served by scheduled air carriers in the United States. ACI-NA has no parent company, it is not publicly-traded, and no publicly-traded company owns 10 percent or more of ACI-NA’s stock.



Scott P. Lewis

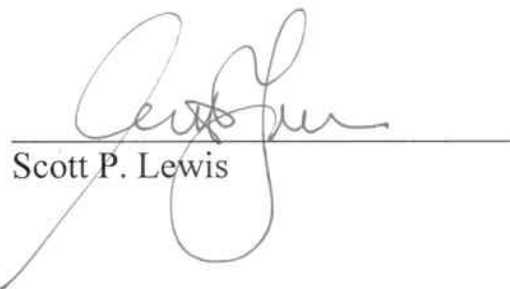
CERTIFICATE OF SERVICE

I hereby certify that on September 10, 2008, I caused a true and accurate copy of the foregoing Unopposed Motion for Leave to Intervene to be served on the following persons by first-class mail, postage prepaid.

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