

UNITED STATES OF AMERICA
BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION

In the Matter of

Delaware Federal Credit Union

Docket BD-05-06

Field of Membership Appeal

Decision and Order on Appeal

Decision

This matter comes before the National Credit Union Administration Board (Board) on appeal from Delaware Federal Credit Union. The Region II Director denied the Delaware Federal Credit Union's application to convert to a community charter.

Background

Delaware Federal Credit Union (the FCU) is a multiple common bond credit union located in Dover, Delaware with six branches and twenty-five ATMs located throughout the state. According to the September 2006 call report, it had 29,000 members (potential of approximately 143,500) and assets of \$171 million. According to US Census data, Delaware had a population of approximately 844,000 in 2005. The FCU was chartered in 1960 to serve the employees of the Delaware State Highway Department. It has since diversified by expanding its field of membership to serve more than 80 select groups and several underserved areas. Its core membership groups are state and local employees of the State of Delaware, which includes employees of twenty-five of Delaware's government departments, a state-funded university, a community college, employees of many of Delaware's municipalities and two of its counties.

In February 2000, the FCU submitted an application to convert from a multiple common bond credit union to a community charter. The community requested was the State of Delaware. Delaware is 1955 square miles, 96 miles long and from 9 to 35 miles in width; it consists of three counties. The population of Delaware was approximately 753,000 in 1998, according to US Census information. The application was denied by the Region II Director in March of 2000.

The issue for appeal was whether the State of Delaware met the definition of a local community as set forth in Interpretive Ruling and Policy Statement

(IRPS) 99-1. IRPS 99-1 was set forth in NCUA's 1999 Chartering Manual. Section 109(b)(3) of the Federal Credit Union Act (12 U.S.C. 1759(b)(3)) states that "the membership of any federal credit union shall be limited to ...[p]ersons or organizations within a well-defined local community, neighborhood, or rural district." Section 109(g) of the Act requires the Board to issue a regulation defining the term "well-defined local community, neighborhood or rural district." The 1999 Chartering Manual stated that "NCUA policy is to limit the community to a single, geographically well-defined area where the individuals have common interests or interact." It then set out a three-part test:

- The geographic area's boundaries must be clearly defined;
- The charter applicant must establish that the area is a "well-defined local community, neighborhood, or rural district;" and
- The residents must have common interests or interact.

The State of Delaware forms an area with distinct boundaries. However, the 1999 Chartering Manual stated that although "... state boundaries are well-defined areas, they do not meet the second requirement that the proposed area be a local community, neighborhood, or rural district." The FCU's appeal was denied by the Board in September 2000 (Docket No. 00-FOM-006) based on the Chartering Manual restriction that state boundaries cannot qualify as a local community.

Delaware FCU submitted its current application to convert to a community charter in June 2006. The application seeks the same community as the 2000 application – the State of Delaware. Region II denied the application based on the current Chartering Manual's statement that state boundaries do not meet the requirement that the proposed area be a local community. The FCU appealed the Region II determination on September 14, 2006.

Although the Chartering Manual was revised and reissued in 2003 (see 68 Fed. Reg. 19334, 4/15/03) and amended in 2006 (see 71 Fed. Reg. 36667, 6/28/06), the provision regarding state boundaries not meeting the requirement of a local community has remained the same.

Issue for Appeal

The issue for the Board on appeal is the same as was addressed in the FCU's appeal in 2000: whether the State of Delaware meets the definition of community set forth in IRPS 03-1, as amended by IRPS 06-1.¹ The provisions in the FCU Act have not changed; neither have the substantive provisions of the Chartering Manual relevant to this appeal. As already noted, Section 109(b)(3) of the FCU Act provides in part that "the membership of any federal credit union shall be limited to ...[p]ersons or organizations within a well-defined local community, neighborhood, or rural district" and Section 109(g) of the Act requires the Board to issue a

¹ IRPS 03-1 is set forth in the 2003 Chartering Manual. The amendments made by IRPS 06-1 have not yet been incorporated into the 2003 Chartering Manual, but they are not relevant to this appeal.

regulation defining the term “well-defined local community, neighborhood or rural district.” The 2003 Chartering Manual states that “[c]ommunity charters must be based on a single, geographically well-defined local community, neighborhood or rural district where the individuals have common interests and/or interact.” It then sets forth the following requirements for community charters:

- The geographic area’s boundaries must be clearly defined;
- The area is a “well-defined local community, neighborhood, or rural district;” and
- Individuals must have common interests and/or interact.

The Charter Manual continues:

“Well-defined” means the proposed area has specific geographic boundaries. Geographic boundaries may include a city, township, county (or its political equivalent), or a clearly identifiable neighborhood. Although congressional districts and state boundaries are well-defined areas, they do not meet the requirement that the proposed area be a local community.

2003 Chartering Manual at p. 2-42, emphasis added.

The State of Delaware forms an area with well-defined boundaries. However, state boundaries do not meet the requirement of a local community pursuant to the Chartering Manual.

Order

For the reasons set forth above, it is ORDERED as follows:

The Board upholds the Region II Director’s denial of Delaware Federal Credit Union’s request to convert to a community charter and Delaware Federal Credit Union’s appeal is denied.

So **ORDERED** this 15th day of February 2007 by the National Credit Union Administration Board.

Mary Rupp
Secretary of the Board