

UNITED STATES OF AMERICA
BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION

In the Matter of

**Cinfed Federal Credit Union
Emery Federal Credit Union**

Docket BD-06-06

Joint Field of Membership Appeal

Decision and Order on Appeal

Decision

This matter comes before the National Credit Union Administration Board (Board) on appeal from Cinfed Federal Credit Union (Cinfed) and Emery Federal Credit Union (Emery). The Region III Director denied the both Cinfed's and Emery's applications to convert to community charters.

Background

Cinfed is a multiple common bond credit union. It was chartered by the State of Ohio in 1934 as Local #75 Federal Employees Credit Union to serve union-affiliated government employees. In 1935 it expanded its charter to serve all active and retired federal employees in the Cincinnati area. It obtained a federal charter in 1975 and changed its name to Cinfed; in 1984 and 1992 it obtained additional members through mergers. Cinfed has continued to expand and now includes over 100 select employee groups and has approximately 28,000 members out of a potential of 40,000, giving it a 70% penetration rate. It has approximately \$217 million in assets. Cinfed has a long history of financial strength and is a well-managed institution.

Emery is also a multiple common bond credit union. It was chartered in 1939 to serve employees of Emery Industries (a chemical company) located in Cincinnati. It expanded over the years and now includes over 100 select employee groups. It has obtained additional members through four mergers. Emery has assets of approximately \$104 million with 14,500 members out of a potential of 34,000, giving it a 43% penetration rate. Emery has a long history of financial strength and is a well-managed institution.

Cinfed and Emery each applied to convert to a community charter, serving the same proposed community, an 8-county area including and surrounding Cincinnati, Ohio. Cinfed submitted its original request to convert to a community charter in early 2004. Region III informally deferred the request several times with ongoing discussions with Cinfed to obtain additional information. Cinfed submitted an addendum to its original application in April of 2006. Emery submitted its original request to convert to a community charter in January, 2006 and submitted an addendum to that application in February, 2006. The Region III Director denied Cinfed's application on October 4, 2006 and denied Emery's application on October 12, 2006. Cinfed and Emery submitted a joint appeal to the NCUA Board on November 17, 2006. On the same date, both Cinfed and Emery also submitted separate individual appeal letters, supporting the joint appeal.

Issue for Appeal

The issue in this joint appeal is whether the eight-county proposed area requested qualifies as a well-defined, local community as that term is used in the Federal Credit Union Act and NCUA's field of membership policy.

Law and Policy and their Application to the Conversion Requests

For purposes of community charters, Section 109 of the Federal Credit Union Act states that "the membership of any Federal credit union shall be limited to ... persons or organizations within a well-defined local community, neighborhood or rural district." 12 U.S.C. 1759(b)(3). Congress added the word "local" to the statute when it amended the FCU Act in 1998, but did not define the word local in either the FCU Act or its legislative history. NCUA's current field of membership policy is found in Interpretive Ruling and Policy Statement (IRPS) 03-1, as amended by IRPS 06-1. The IRPS is set forth in NCUA's Chartering and Field of Membership Manual (the Manual)¹. The Manual states as follows:

Community charters must be based on a single, geographically well-defined local community, neighborhood, or rural district where individuals have common interests and/or interact. ...

NCUA has established 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

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.

-Individuals must have common interests and/or interact. ...

“Well-defined” means the proposed area has specific geographic boundaries.

Manual at 2-42.

The proposed eight-county community meets the requirement of being well-defined in that it consists of eight contiguous counties and the area has specific geographic boundaries.

The proposed community includes the following counties: Butler, Clermont, Hamilton and Warren Counties, Ohio; Boone, Campbell and Kenton Counties, Kentucky; and Dearborn County, Indiana. The eight-county area covers 2592 square miles and its population estimate for 2005 was 1.94 million. It extends approximately 55 miles at its largest north/south expanse and 58 miles at its largest east/west expanse. The proposed eight-county community encompasses a portion of an Office of Management and Budget (OMB) defined Metropolitan Statistical Area (MSA) called OH-KY-IN (Cincinnati Middletown). The MSA includes fifteen counties. The seven counties in the MSA that are not included in the proposed community encompass 41% of the MSA’s area, but only 6.3% of the MSA’s population.

According to OMB Bulletin 07-01 (dated December 18, 2006), an MSA is a metropolitan area including “at least one urbanized area of 50,000 or more population, plus adjacent territory that has a high degree of social and economic integration with a core as measured by commuting ties.” (See p. 2 of Appendix to OMB Bulletin.) Hence the OMB definition of MSA is measured by commuting ties. OMB notes that when using the definitions for non-statistical purposes, it is the sponsoring agency’s responsibility to ensure that the definitions are appropriate for such use and that agencies may modify the definitions for their particular non-statistical program. (See pages 1 – 2 of OMB Bulletin.) The Chartering Manual permits the use of MSAs for purposes of defining a local community but imposes further requirements when population exceeds a certain level.

The Chartering Manual states that the requirements of a local community may be met if:

The area to be served is a Metropolitan Statistical Area (MSA) ... or a portion thereof, where the population of the MSA ... does not exceed 1,000,000.

Manual at 2-42 through 2-43.

In such a case, the applicant need only submit a letter describing how the area meets the standards for community interaction and/common interests. NCUA will then determine if further documentation is necessary. Since the proposed community has a population well in excess of 1,000,000, this provision of the Chartering Manual is not applicable.

According to the Chartering Manual, if the population of a multiple county MSA or portion thereof exceeds 1,000,000, the credit union is required to include documentation to support that it is a well-defined local community. The FCU may provide various types of documentation (e.g. information on trade areas, shared common facilities, organizations and clubs, newspapers, maps and any other documentation that demonstrates common interest and interaction). In addition:

It is the applicant's responsibility to demonstrate the relevance of the documentation provided in support of the application. This must be provided in a narrative summary. The narrative summary must explain how the documentation demonstrates interaction and/or common interests.

Manual at 2-43.

Cinfed and Emery provided voluminous information in both their original applications and addenda thereto. They provided documentation and a narrative on, among other things, employment and commuting, shopping areas, the highway system, higher education, local airport, entertainment, sporting and cultural events, hospitals and other medical services, and local newspapers in order to meet the standards of a local community, (which is to show adequate common interest or interaction throughout the proposed community.) Employee commuting patterns showed interaction across the entire proposed community, but the other evidence submitted failed to show adequate interaction or common interest. A discussion of some of the applicants' submissions follows.

Employee Commuting Patterns

A majority of county residents work in their home county. However, Hamilton County (home to Cincinnati) is the most populated county as well as the county with most of the largest employers. It employs approximately 497,000 workers from the eight-county area. The vast majority of Hamilton County residents (336,000 or 84.4%) work in Hamilton County, but there is also a large portion of residents from the other seven counties who work in Hamilton County. Over fifty-four percent of the eight-county work-force works in Hamilton County. Approximately 160,000 residents of the other seven counties commute to Hamilton County to work. We believe that the employee commuting patterns do show interaction among residents throughout the proposed community. OMB recognizes that an MSA has a high degree of social and economic interaction as evidenced by

commuting patterns. The Chartering Manual permits a presumption of community when the area consists of a multiple county MSA (or portion thereof) where the population does not exceed 1,000,000. Where, as here, the area is larger the applicant must include documentation to support that it is a well-defined local community where residents interact or share common interests. We now examine that documentation.

Shopping

The credit unions submitted information noting that the three largest shopping malls are located within seven miles of each other in the north central area of Hamilton County. They determined that this area is the trade center of the proposed community. The credit unions submitted estimates of mall usage per county for these as well as other malls within the proposed community. The estimates are based on portions of the various counties estimated to be within each mall's trade center and estimates of populations of those portions of the counties usage of the malls. The data submitted on concentration and location of malls and the estimates of shoppers from the eight-county area based on concentration and location was inconclusive regarding a showing of inter-county interaction.

Medical Services

The FCUs submitted information on medical services and hospitals located within the proposed community. Several major hospitals are located in Cincinnati; however, there are hospitals throughout the eight-county area. Information provided on county residence of patients at the eighteen largest hospitals within the proposed community indicated the hospitals serve patients who reside within the county where the hospital is located. This shows a lack of cross county interaction. The Greater Cincinnati Health Council does facilitate group purchasing for 130 medical facilities (including hospitals, physician groups, and other medical facilities). Although the Council provides a service to the proposed community, we do not believe it adds significantly to interaction among proposed community residents. The evidence provided on medical services does not show significant interaction among residents of the proposed community.

Higher Education

Information submitted on higher education showing student enrollment by county of residence indicated very limited cross county enrollment. Such limited cross county enrollment does not provide the opportunity for interaction among student residents of the eight counties.

Cultural Organizations, Museums and Sporting Events

The credit unions provided information on sporting events and various cultural events and museums. No information on the county residence of attendees at

such events was provided. Only estimates based on the proportion of the populations of each county was provided. Although the availability of multiple sports venues, museums and cultural events provides the opportunity for interaction across the proposed community, no evidence of such interaction was provided.

Conclusion

Neither the documentation nor the narrative provided demonstrates adequate interaction or common interests for this eight-county area encompassing portions of three states. The documentation sets forth what services, organizations, events, festivals, etc. are available to the residents of the proposed community. The recitation of what types of services, etc. are available provides for the opportunity for interaction, however, it does not, by itself, provide evidence of interaction/common interest among residents of the proposed community. With the exception of employee commuting patterns, the statistics submitted did not provide for significant cross community interaction. Neither does the narrative show how residents of this large, highly populated area, including eight counties from three states, interact or share common interests. It is our conclusion that the credit unions have not provided adequate evidence that the proposed eight-county area is a local community under the standards set forth in the Chartering Manual.

Order

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

The Board upholds the Region III Director's denial of Cinfed Federal Credit Union's and Emery Federal Credit Union's requests to convert to community charters and Cinfed Federal Credit Union's and Emery Federal Credit Union's joint appeal is denied.

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

Mary Rupp
Secretary of the Board