

UNITED STATES OF AMERICA
BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION

In the Matter of

Network Federal Credit Union

Docket No. 99-FOM-001

Decision and Order on Appeal

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

Background

Network Federal Credit Union is a multiple group credit union located in Las Vegas, Nevada. As of year end 1998, it had 17,404 members (potential of 40,550 - 42.9% penetration rate), and assets of \$90,182,249. The Credit Union was chartered in 1960 to serve Department of Energy contractors at the Nevada nuclear test site. The sponsor significantly reduced its workforce in the past several years. Network has relied on field of membership expansions to lessen the impact of sponsor cutbacks. Network has approximately 175 select employee groups in its field of membership.

The Credit Union submitted its application to convert from a multiple group to a community charter on April 8, 1997, in the wake of the A T & T litigation. The requested community is Clark County, Nevada, the county where Las Vegas is located. The Region VI Director denied the application on July 16, 1998, after consultation with NCUA's Offices of Examination and Insurance and General Counsel. The Regional Director stated in her denial that the evidence did not "sufficiently demonstrate there is interaction among area residents." Counsel for Network appealed the Regional Director's denial on September 1, 1998.

Issue for Appeal

The issue in the matter of this appeal is whether Clark County meets the definition of a community set forth in NCUA's field of membership policy.

Analysis and Applicable Law and Policy

For purposes of community charters, Section 109 of the FCU Act

(12 U.S.C. 1759), as in effect at the time of the conversion denial, provided that "Federal credit union membership shall be limited to ... groups within a well-defined neighborhood, community, or rural district."^[1] The Chartering Manual^[2] states that it is NCUA policy "to limit the community to a single, geographically well-defined area where residents interact." It then sets out a two part test:

- The geographic area's boundaries must be clearly defined; and
- The charter applicant must establish that the area is recognized as a distinct neighborhood, community, or rural district.

Chartering Manual ch. 1, II.C.1, p. 1-6; ch. 2, IV.B, p.2-8. Clark County meets both parts of this test.

Clark County is a clearly defined geographic area. As a county, it is a political jurisdiction with distinct

boundaries. In addition, Clark County, and specifically its highly populated area known as the Las Vegas Valley Urban Area (LVVUA), is geographically isolated from other populated areas.

The Chartering Manual sets forth the types of documentation needed to show that the area requested represents one well-defined area, distinguishable from the immediate surrounding areas. The documentation includes major trade areas (shopping patterns), traffic flows, shared/common facilities (educational, medical, police and fire protection, school district, water, etc.), common organizations and clubs, area newspapers or other periodicals, census tracts, history of area, common characteristics and background of residents, as well as what causes the area and its residents to be distinguishable from the immediate surrounding areas and residents. Chartering Manual at p. 1-7.

Clark County is geographically very large. The population of the county is approximately 1.12 million.^[3] Approximately 96% of the county's population live within the 20 by 25 square mile area known as the Las Vegas Valley Urban Area. The LVVUA is made up of the city of Las Vegas, two smaller cities, and several unincorporated towns. Only 45,000 residents of Clark County live outside the LVVUA, half of these residents live within two small cities, the rest live in unincorporated areas of the county.

In this case, the second part of the two-part community test is more difficult to meet and less objective to describe than the first part because the LVVUA has a large, dense, vastly urban population. For purposes of credit unions applying to convert to a community charter, "the greater the population of the proposed area, the greater justification necessary to support the existence of the "community" and interaction among its residents." Chartering Manual at p. 2-8. The Credit Union applicant must show that the proposed community is not only distinguishable from the surrounding area, but that its residents interact to form a community.

The Credit Union submitted a brief history of the area and information on the county government. The development of the casino/hotel/resort industry starting in the 1930s indicates a central focus of the proposed community.

The Credit Union submitted a listing of county wide clubs and organizations. It also submitted information on traffic flows, shopping areas, newspapers and other periodicals, and radio stations. This information does indicate interaction among county residents; however, the same type of organizations and services exist in most large, highly populated counties.

The county government consists of a board of county commissioners. Clark County provides various types of services to all county residents that lend to the type of interaction required for a community chartered credit union. There is one public school system in Clark County. It is the 14th largest in the nation and it operates 182 schools with over 155,000 students (based on the 1995-96 school year). There is one sanitation department, one fire department (with three fire districts), one health district, one park and recreation district, one large medical center and three water districts. There is one community college and one large university. Ninety five percent of students enrolled at the community college and 79% of students enrolled at the university are Clark County residents. There are two law enforcement agencies - the Las Vegas Metropolitan Police Department and the Clark County Sheriff's Office. Both have jurisdiction over the entire county. The provision of all of these services on a county-wide basis evidences interaction among Clark County residents.

The Credit Union submitted demographic information that shows both what Clark County residents have in common and how its residents are different from those of surrounding counties. The demographic information submitted by Network indicates similarities in the residents of the five major cities in Clark County in the following categories: median household income; occupation; household size; and age grouping. In addition, the vast majority of Clark County residents are urban dwellers and are more likely to work within

their home county than residents of counties bordering Clark County. We believe that this information supports the community documentation criteria for common characteristics and background of residents. Also, central to Clark County, and in particular the LVVUA, is the one major service industry, the hotel/resort/casino industry. This distinguishes the LVVUA (that is the vast majority of Clark County residents), from the surrounding areas and residents.

Order

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

The Region VI Director's decision denying Network Federal Credit Union's application to convert to a community chartered credit union is reversed and the appeal is granted.

Network Federal Credit Union's request for a community charter to serve persons who live, work, worship and attend school in, and businesses and other legal entities located within Clark County, Nevada is granted.

So Ordered this 24th day of February, by the National Credit Union Administration Board.

Becky Baker

Secretary, NCUA Board

[1] Section 109 was subsequently amended by the Credit Union Membership Access Act of 1998. This appeal is decided on the basis of the provisions of the FCU Act in existence prior to that amendment.

[2] Interpretive Ruling and Policy Statement (IRPS) 94-1, as amended by IRPS 96-1, constitutes NCUA chartering policy in affect at the time Network filed its conversion application and is applicable to this appeal. The policy is incorporated into and referred to as the Chartering Manual. IRPS 98-1, amending the Chartering Manual, was issued by the Board on January 2, 1998, after the Credit Union submitted its application to convert, but before the Region VI denial and the Credit Union's appeal. The only substantive change made by IRPS 98-1 was the elimination of the requirement for written evidence of community support. Such evidence was submitted in this case, but it is not relevant to the issue on appeal. IRPS 99-1 (which implements the Credit Union Membership Access Act) is not applicable to this appeal.

[3] Population figures noted in this paragraph are from the Clark County Department of Comprehensive Planning (1996).

[4] Lincoln County and Nye County are 100% and 62% rural, respectively, compared to 98% urban for Clark County residents.