

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION

In the Matter of

Bellco First Federal Credit Union

*Docket No. 99-FOM-002*

Decision and Order on Appeal

This matter comes before the National Credit Union Administration Board (Board) on appeal from Bellco First Federal Credit Union (Bellco or Credit Union). The Region V Director denied the Credit Union's application to convert to a community charter and, upon the Credit Union's request for reconsideration, denied the application a second time.

Background

Bellco is a multiple group credit union located in Englewood, Colorado. As of year end 1998, it had 114,420 members (potential of 343,260) and assets of \$851 million. The Credit Union was chartered by the State of Colorado in 1936 to serve employees of Mountain Bell. Bellco's field of membership currently consists of approximately 650 select employee groups, associations and subsidiaries. The overall penetration rate of the Credit Union is 33%.

The Credit Union submitted its application to convert from a multiple group to a community charter on December 18, 1997, in the wake of the A T & T litigation. The requested community is a six-county area<sup>[1]</sup> including Denver, Colorado.

The Region V Director denied the application on May 19, 1998. The Regional Director noted in his denial that he would reconsider his decision if Bellco would, among other things, provide evidence demonstrating the proposed area is a single, well-defined community where residents interact. The Credit Union then submitted additional information with a request for reconsideration. On December 7, 1998, the Region V Director denied the request for reconsideration. The request was denied because the application did not show the residents of the proposed area to have sufficient interaction to support it as a distinct neighborhood, community, or rural district as defined in the Chartering Manual.<sup>[2]</sup> Both NCUA's Office of Examination and Insurance and Office of General Counsel were consulted prior to and concurred with the denial. Bellco, through its attorneys, appealed the denial to the NCUA Board on January 18, 1999.

Issue for Appeal

The issue in the matter of this appeal is whether Dallas County meets the definition of a community set forth in NCUA policy.

Analysis and Applicable Law and Policy

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

(12 U.S.C. 1759) states that "Federal credit union membership shall be limited to ... groups within a well-defined neighborhood, community, or rural district."<sup>[3]</sup> The Chartering Manual 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.

The Board focused on the second part of the test. The Chartering Manual sets forth the types of documentation needed to show that the community area represents one well-defined area, distinguishable from the immediate surrounding areas. The documentation includes major trade areas (shopping patterns), traffic flows, shared/common facilities, 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. Manual at p. 1-7.

The proposed six-county area includes one very large city (Denver) as well as several additional cities within its boundaries. The population of the City of Denver is approximately 500,000. Aurora, the second largest city within the proposed area, has a population of 247,000. The area also includes Boulder (population 96,000); Lakewood (population 133,000); and Westminster (population 89,500). The six-county area has a total population of 2.2 million people and encompasses approximately 4500 square miles.

The six-county area has a large, dense, vastly urban population, with multiple urban areas. 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 one community.

The Credit Union submitted demographic information that shows how the six-county area is different from surrounding individual counties. The six-county area is a more densely populated area than any of the ten counties bordering it.<sup>[4]</sup> The six-county area is the second highest area in income level and the 3<sup>rd</sup> highest in education level in comparison to the 10 bordering counties.<sup>[5]</sup> The demographic information does little, if anything, to show that the six-county area forms a community. It does not show interaction among residents to support that the area is a community within NCUA policy.

Bellco submitted voluminous documentation on the requirements to support a community.<sup>[6]</sup> The Credit Union submitted a brief history of the area and information on the regional council of governments and state government. The unified Denver Regional Council of Governments is a “voluntary association of city and county governments that cooperatively identify problems and implement solutions regarding regional concerns.”<sup>[7]</sup> Although this Council may provide for some interaction across the six-county area, it is not a governing body. The area is not governed by one entity. Each city/county elects and is governed by its own officials.

Bellco submitted information on the Denver Metro Chamber of Commerce. The Chamber exclusively serves the six-county area and through its programs, provides for some interaction among residents of the area. Information was also submitted on cooperative efforts in the area (sports, cultural and transit), major employers, shopping areas, traffic flows, and transportation, education, medical facilities, public utilities and telecommunications. It submitted information on community clubs and organizations, performing arts venues, museums, recreation and professional sports teams, and print and broadcast media. These organizations, events, services and facilities do indicate some interaction among county residents, however, they are no different than those that exist in any large metropolitan area. They do not provide the “greater

justification” necessary to support community and interaction in a highly populated area.

It is important to note that there are nineteen separate public school districts in the proposed area. The existence of so many separate school districts indicates that students, parents and staff do not interact throughout the county through the use of shared educational facilities. The Credit Union submitted minimal information on the public educational system. It submitted no information on police and fire protection in the six-county area. Education, and police and fire protection are all listed in the Chartering Manual as examples of shared facilities supporting a community charter. See Manual at p. 1-7.

There are two documentation requirements set forth in the Chartering Manual that are clearly lacking in the application package. The first is common characteristics and background of residents. The Chartering Manual notes examples of the types of information to meet this requirement as income, religious beliefs, primary ethnic groups, similarity of occupations, household types, primary age group, etc. See Manual at p. 1-7. Although some of this information is touched upon in the Credit Union’s submission of data on demographics, the application does not identify the similarities among area residents that would help to identify it as a community. Rather, the discussion focuses on how demographics of the six-county area differ from those of its surrounding counties. The information submitted does not show common characteristics or background as is required by the Chartering Manual.

The second documentation requirement relates to information on “what causes the chosen area and its residents to be distinguishable from the immediate surrounding areas and residents – some examples are old, well-established ethnic neighborhoods, planned communities, and small/rural towns or rural counties.” Manual at p. 1-7. No information was submitted on this criterion.

In summary, the Credit Union did not submit meaningful information on the common characteristics and background of area residents and the characteristics that distinguish the area and its residents from surrounding areas and residents; information that is crucial in defining this densely populated six-county area as a community. In addition, the other areas of information required (e.g. history, traffic flows, shopping patterns, shared facilities, organizations, periodicals) must show that there is sufficient interaction among and between residents on an area-wide basis. The multiplicity of services available indicates insufficient interaction. Especially noted is a lack of information on public education, and police and fire protection. The Credit Union does not show adequate interaction among its residents to meet the community chartering standards.

#### Order

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

The Region V Director’s decision denying Bellco First Federal Credit Union’s application to convert to a community chartered credit union is upheld and the appeal is denied.

So Ordered this 19<sup>th</sup> day of May, 1999, by the National Credit Union Administration Board.

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Becky Baker

Secretary of the Board

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[1] The six counties requested are Adams, Arapahoe, Boulder, Denver, Douglas and Jefferson.

[2] Interpretive Ruling and Policy Statement (IRPS) 94-1, as amended by IRPS 96-1, constitutes NCUA chartering policy in affect at the time Bellco filed its conversion application and is applicable to this appeal. The IRPSs are incorporated into and referred to as the Chartering Manual. The Region also denied the application on the issue of ability to serve the proposed community. The Board does not address the issue of ability to serve.

[3] This provision of Section 109 is from the FCU Act prior to its amendment by the Credit Union Membership Access Act of 1998. Since Bellco filed its community conversion application prior to amendment of the FCU Act, the unamended version of Section 109 is the applicable version.

[4] Range is from 1.9 people per square mile (Washington County) to 402.5 people per square mile, (proposed six-county area). *See* chart on p. 5-4 of original application package.

[5] *See* chart on p. 5-4 of original application.

[6] This information is found in chapters 5 & 6 of the application package.

[7] *See* application at p. 6-4.