

UNITED STATES OF AMERICA

BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION BOARD

In the Matter of

United Railway Federal Credit Union

*Docket No. 99-FOM-008*

Decision and Order on Appeal

This matter comes before the National Credit Union Administration Board (Board) on appeal from the United Railway Federal Credit Union (Appellant). The Region V Director denied the Appellant's application to add the employees of the Burlington Northern Santa Fe (BNSF) Railway Gulf Division group to its field of membership.

Background

Appellant is a multiple common bond (occupational) credit union located in Fort Worth, Texas. Its primary sponsor is the BNSF Railway. Its main office is located in Fort Worth with one additional service facility in St. Paul, Minnesota. On May 18, 1999, the Appellant submitted its application for a field of membership amendment to add employees of the BNSF Gulf Division (Gulf Division group). The Gulf Division group employees consist of between 300 and 350 primary potential members who are located in Houston, Texas. Houston is approximately 280 miles from Fort Worth. The Region V Director denied the application to add the Gulf Division group on June 7, 1999, because the group is located outside of the Appellant's service area. United Railway FCU filed its appeal on July 22, 1999.

Issue for Appeal

The issue in the matter of this appeal is whether the Gulf Division group is within the reasonable proximity of the Appellant.

Analysis and Applicable Law and Policy

Section 109 of the Federal Credit Union Act, as amended by the Credit Union Member Access Act, 12 U.S.C. 1759, [\[1\]](#) imposes a "reasonable proximity" limitation on multiple common bond credit union expansions. Section 109(f)(1)(B) states:

[I]f the formation of a separate credit union by the group is not practicable or consistent with the standards referred to in subparagraph (A), [the Board shall] require the inclusion of the group in the field of membership of a credit union that is within reasonable proximity to the location of the group whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union.

Interpretive Ruling and Policy Statement 99-1 states that for multiple common bond credit unions, “groups must be within reasonable geographic proximity of the credit union. That is, the groups must be within the service area of one of the credit union’s service facilities.” Chartering Manual at p. 2-30, emphasis added. A credit union’s service area is defined as “the area that can reasonably be served by the service facilities accessible to the groups within the field of membership.” Manual at pp. 2-30 and A-1 (Glossary). The Federal Register published preamble to the Chartering Manual also addresses reasonable proximity and service area. The Board noted its view that “CUMAA and its legislative history sets forth the requirement that reasonable proximity should be a geographic limitation. That is, the group to be added must be within reasonable proximity geographically to the credit union.” 63 Fed. Reg. 72002 (December 30, 1998.)

Appellant notes on its application to serve the Gulf Division group that the service area of its Fort Worth facility is the downtown Fort Worth area. The Region states that the outer limits of this service area would be 25 miles from the Fort Worth office. The Region V Director determined that the Gulf Division group was not within the Appellant’s service area since Houston is approximately 280 miles from Fort Worth. The Board adopts this determination. Appellant does not contest this determination, but rather states that it possesses the means to serve the Gulf Division group through ATMs, Internet service, bank by mail, direct deposit, etc., regardless of geographic distance from the group. The Board understands that Appellant may have the ability and willingness to serve the Gulf Division group, however, such service is outside of NCUA policy since the groups is not within the Appellant’s service area.

#### Order

Based on the NCUA Board’s determination that the Gulf Division group is outside of the Appellant’s service area, it is ordered as follows:

The Region V Director’s decision denying United Railway Federal Credit Union’s application to add the Gulf Division group to its field of membership is upheld and the appeal is denied.

So Ordered this 16<sup>th</sup> day of December, 1999, by the National Credit Union Administration Board.

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Becky Baker

Secretary of the Board

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[1] Congress amended the field of membership provisions as well as several other sections of the FCU Act in August 1998 by the passage of the Credit Union Membership Access Act (CUMAA).

[2] Interpretive Ruling and Policy Statement 99-1 (IRPS 99-1) implements the changes made by CUMAA, setting forth NCUA chartering and field of membership policy. IRPS 99-1 is set forth in NCUA’s Chartering Manual, NCUA 8007/M6001 (Jan. 1999). References to the Chartering Manual are to the Jan. 1999 edition.