



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

Office of General Counsel

Mr. George E. Myers
President/CEO
Defense Credit Union Council
1720 Rhode Island Ave., N.W.
Washington, DC 20036

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April 23, 1986

Dear Mr. Myers:

This is in response to your letter (with enclosures) of March 31, 1986, to Chairman Jepsen concerning Federal credit union sponsored "utility clubs." Specifically, you seek an opinion with respect to the legality of FCU involvement (sponsorship, etc.) with these utility clubs. As stated in your letter, the purpose of the utility club is to assist members in providing security deposits required by utility companies for utility services.

We have reviewed your letter and the enclosures and, based upon the facts contained therein, are of the opinion that the general activity is legal for FCU's, as more fully explained below.

The basic operation of the "utility club" is as follows. An interested individual must be a member or become a member of the FCU sponsoring the program. The individual applies for "membership" in the so-called "utility club," and pays a nominal nonrefundable "membership fee" (in the case cited in your letter, \$15.00). In consideration for his "membership fee," the member is eligible for the "service" provided by the utility club." The "service" is a guarantee by the FCU to the utility company for an amount, somewhat in excess, of the required security deposit for losses, costs, or expenses incurred by the utility as a result of the member's failure or inability to pay for the utility service provided. If the FCU makes such payment on behalf of the member, pursuant to the "utility club" agreement, the member agrees to repay the FCU with interest (some of the plans may not require the payment of interest, the documents are not clear on this point).

It appears to us that the "utility club" is no more than an approved line of credit (probably more in the nature of a letter of credit) on behalf of the member for the benefit and use of the utility company in the event that the member fails to make required utility payments. (In fact, this point is crystalized

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in the Energizer Line of Credit Plan document used by the Atlantic Fleet FCU.) Before approval for membership in the "utility club," a loan-type application is completed by the member and credit check performed by the FCU. The cost of this letter of credit is the so called "membership fee."

FCU's are authorized pursuant to Section 107(5) of the FCU Act (12 U.S.C. §1757(5)) to extend lines of credit to their members. It is our opinion that the utility club program would be permitted under this authority.

Lastly, we should point out that any applicable Truth-In-Lending Act and Regulation Z disclosures must be made by an FCU in conjunction with this program. We suggest that each FCU engaging in these activities consult with their legal counsel with respect to any required disclosures.

I hope that we have been of assistance. Please let me know if I can be of further help.

Sincerely,



STEVEN R. BISKER
Assistant General Counsel

SRB:cch