

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

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Person To Contact:

, ID No.

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CC:TEGE:EOEG:TEB

PLR-144473-05

Date:

April 18, 2006

LEGEND:

Cooperative =

State =

Member =

Date 1 =

Date 2 =

Date 3 =

Dear :

This is in response to your request for rulings submitted on behalf of Cooperative, concerning the status of Cooperative for purposes of §§ 103 and 141 of the Internal Revenue Code. On Date 1 we issued a ruling that bonds issued by Cooperative will be considered issued on behalf of its members that are political subdivisions for purposes of § 103. On Date 2 we issued a ruling that Cooperative is a wholly owned instrumentality of its members for purposes of § 141. You have requested rulings that (1) Cooperative remains able to issue bonds on behalf of its governmental members for purposes of § 103; and (2) Cooperative remains an instrumentality of its governmental members for purposes of § 141.

Facts and Representations

You make the following factual representations. Cooperative was organized for the purpose of obtaining economical, reliable wholesale electric power supplies and transmission services for its members (the "Members"). Cooperative also arranges for and provides technical services and training (such as engineering design and planning) and safety training for the Members, acts as a clearinghouse for information, and assists Members with regard to project financings.

Cooperative was formed by specific legislative act of the Members as a non-profit corporation organized under the non-profit corporation laws of State for the sole purpose of benefiting the Members. Subsequent to Date 1, Cooperative admitted additional Members from State, as well as Members from other states. Cooperative also expects that in the future it will admit additional Members from State and other states.

Cooperative will amend its bylaws to provide that Members, including any that may be admitted in the future, must be either (1) political subdivisions of State or another state that own or are in the process of initiating electric, natural gas, or communication utility systems, or (2) political subdivisions of State or another state that consume a peak load of at least 5 megawatts primarily for their own use, but the entities may also distribute such electric power to others or entities that qualify as in (1) but are geographically remote from Cooperative's general area of operations. Members described in (2) will be eligible to vote for trustees of the Board but cannot serve as trustees.

Cooperative's powers specifically include the right to borrow on behalf of the Members. Debt service on bonds issued by Cooperative is and will continue to be payable solely out of revenues and receipts derived by Cooperative from the operations of Cooperative. Cooperative intends to issue bonds to finance all or a portion of its ownership interest in a proposed power plant (the "Power Plant"). The Power Plant will provide a portion of future power supply needs of the Members. Cooperative will own the Power Plant either alone or jointly with one or more investor-owned, political subdivisions or § 501(c)(12) cooperative entities.

If the Power Plant has output capacity greater than that needed by the Members, Cooperative will enter into long-term contracts to sell the excess output to non-Member public and private entities. To the extent that any such contracts with private entities result in private business use sufficient to meet the private business use test under § 141(b), Cooperative will either issue taxable debt or receive funds from the private entities. The taxable debt or the funds from the private entities would be in an amount sufficient to finance the costs of the portion of the Power Plant allocable to such excess private business use.

On Date 3 the Service issued a ruling that the income of Cooperative is excludable from gross income under § 115, and that Cooperative can terminate its exemption from federal income tax under § 501(c)(12) as a mutual or cooperative company. Cooperative may terminate its status as an organization described in § 501(c)(12).

Conclusion

We conclude that the Cooperative membership changes subsequent to Date 1, the amendments to Cooperative's bylaws, the proposed Power Plant joint ownership, the proposed issuance of taxable debt by Cooperative, and Cooperative's termination of its § 501(c)(12) status will not adversely impact (1) the ruling we issued on Date 1 that bonds issued by Cooperative will be considered issued on behalf of its governmental members under § 103, or (2) the ruling we issued on Date 2 that Cooperative is a wholly owned instrumentality of the Members for purposes of § 141.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any transaction or item discussed or referenced in this letter. Specifically, no opinion is expressed or implied concerning the consequences of the proposed ownership or operation of the Power Plant on whether the income of Cooperative continues to be excluded from gross income under § 115.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with a Power of Attorney on file with this office, a copy of this letter is being sent to Authority's authorized representative.

The ruling contained in this letter is based upon information and representations submitted by Authority and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the materials submitted in support of the request for a ruling, it is subject to verification upon examination.

Sincerely,

Assistant Chief Counsel
(Exempt Organizations/Employment
Taxes/Government Entities)

By:

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Senior Counsel
(Tax Exempt Bond Branch)

cc: