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**DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224**

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

S.I.N. – 501.12-02 No Third Party Contacts

Number: **200601031**

Release Date: 01/06/2006

SE:T:EO:RA:T:3

Date: 10/11/05

Contact Person:

Identification Number:

Contact Number:

Fax:

Employer Identification Number:

Legend:

A =

X =

Dear _____ :

This is in response to your rulings request dated May 20, 2004, as supplemented by letter dated May 6, 2005, under section 501(c)(12) of the Internal Code (the Code).

You are exempt under section 501(c)(12) of the Code. You were formed as a rural electric cooperative under the provisions of the A Cooperative Utilities Act.

Your bylaws provide that you operate at all times on a cooperative basis for the mutual benefit of members. The bylaws also provide that each member is entitled to one vote on each matter submitted for a vote at membership meetings. Further, you shall not pay interest or dividends

on any capital furnished by your members. You are obligated to account to all members and patrons, on a patronage basis, net amounts received from furnishing of electricity and other patron services. All such net amounts are received with the understanding that they are furnished by the members or other patrons as capital. You are obligated to pay by credits to a capital account for each member or other patron on all such net amounts. You maintain books and records that reflect at the end of each year the amount of capital, if any, furnished by each member or patron, and within a reasonable time notify each member or patron of the amount of capital credited to the account.

Your bylaws provide that if at anytime prior to dissolution or liquidation the Board of Directors determines that the financial condition of the organization will not be impaired, then it shall permit the retirement of members' or other patrons' capital credit accounts in full or in part. The Board of Directors may, at its discretion, retire the capital accounts of natural persons, members or patrons, who died. The legal representative of the deceased must make the request for early retirement of capital account in writing.

In addition to providing electricity to members or patrons on a cooperative basis, you operate a variety of services on a cooperative basis to members and patrons that include, Wireless Satellite Internet Service Provider (Wireless ISP), and Landline ISP. You acquired the right to provide the Wireless ISP service under separate agreements with X, an organization exempt under section 501(c)(12). You will also provide cable television service on a cooperative basis. You coordinate the installation of landline equipment, perform maintenance, handle customer questions and complaints, and perform customer monthly billings.

You propose to amend your bylaws where membership in the cooperative is available to all customers who do not receive electric service, and to provide members with Wireless ISP, Landline ISP, and cable television services on a cooperative basis. You will eliminate in the bylaws any references to nonmember patrons.

You propose to offer patronage capital discounting so that members can receive early redemption of some or all of their patronage credits. Participation is voluntary and the terms are identical to all members and former members. The difference between the face amount of the patronage credit and the discounted amounts paid to participating member will be retained in the member's name as a permanent Class B Credit redeemable only upon your dissolution or liquidation. You will maintain records of participating members' interest in the Class B Credits.

Section 501(c)(12)(A) of the Code provides for the exemption from federal income tax of benevolent life insurance association of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

Section 501(c)(12)(C) of the Code provides that subparagraph (A) shall apply to mutual or cooperative electric company without taking into account any income received or accrued from qualified pole rentals or prepayment of certain loans from the provisions of the Rural Electrification Act of 1936.

Rev. Rul. 72-36, 1972-1 C.B. 151 set forth certain operational requirements that cooperative companies must meet for exemption under section 501(c)(12) of the Code. These requirements include the following: A cooperative must keep adequate records of each member's rights and interest in the assets of the organization; the rights and interests of members in the organization's savings must be determined in proportion to their business with the organization; a member's rights and interest may not be forfeited upon the withdrawal or termination of membership; a cooperative must not retain more funds than it needs to meet current losses and expenses; and upon dissolution, gains from the liquidation of assets should be distributed to all current and former members in proportion to the value or quantity of business that each did with the cooperative over the years.

In *Puget Sound Plywood v. Commissioner*, 44 T.C. 305 (1965), *acq.* 1966-1 C.B. 3, the court stated that an organization must meet certain common law requirements in order to be a cooperative. These common law requirements include the following: democratic control of the organization by members; the organization operates at cost for the benefit of members; and the contributors of capital to the organization do not control or receive most of the pecuniary benefits of the organization's operations (i.e., subordination of capital).

Rev. Rul. 57-420, 1957-2 C.B. 308 described an organization formed to provide and maintain a two-way radio system for the mutual benefit of its members and without profit. The ruling states that the organization is similar to a mutual or cooperative telephone company in that a two-way radio communication system on a mutual basis is an organization whose purpose is similar in nature to a mutual telephone company. The ruling held that the organization is a "like organization" and provided 85% or more of its income is collected from members for the sole purpose of meeting losses and expenses, it is exempt under section 501(c)(12) of the Code.

Rev. Rul. 83-170, 1983-2 C.B. 97, held that a cooperative organization furnishing cable television service to its members qualifies for exemption from federal income tax as a "like organization" within the meaning of section 501(c)(12) of the Code.

Rev. Rul. 67-265, 1967-2 C.B. 205 holds that an association which furnishes light and water to its members on a cooperative basis may qualify for exemption from federal income tax as a "like organization" under section 501(c)(12) of the Code.

You are engaged solely in furnishing electricity to members on cooperative basis for which you are exempt under section 501(c)(12) of the Code. See section 501(c)(12)(C) and Rev. Rul. 67-265. You now propose to provide landline and wireless internet services, and cable television services to members on a cooperative basis. The internet services provide members with a means to receive information from the internet network and enable them to communicate with others in the network. This service is similar to the communication system provided by the organization described in Rev. Rul. 57-420. Providing cable television service is an activity permitted under section 501(c)(12) as held by Rev. Rul. 83-170. Therefore, as long as the internet and cable television services are provided on a cooperative basis and 85% or more of your income is from members and used solely for meeting your losses and expenses, these new services are "like organization" activities within the meaning of section 501(c)(12) of the Code and will not adversely affect your exemption under that section.

Your patronage capital discounting program will be made available to all members and former members in identical terms and on a voluntary basis. The program allows members to redeem early some or all of their patronage capital credits at a discounted rate. You retain the amount representing the difference between the face value of the patronage credit and the discounted amount, which is credited to the participating members and is available for distribution to them upon your dissolution or liquidation. You will retain contact information records on the participating members. We conclude that the redemption program does not violate the cooperative principles set forth in *Puget Sound Plywood, supra*, and Rev. Rul. 72-36. The redemption program does not affect the rights of a member to vote, to receive services at cost, and to receive refund on any savings derived from services provided.

Based on the foregoing and your representations, we rule as follows:

1. Your provision of internet service via landline to members on a cooperative basis is a “like organization” activity described in section 501(c)(12)(A) of the Code.
2. Your provision of “wireless” internet service via satellite to members on a cooperative basis is a “like organization” activity described in section 501(c)(25)(A) of the Code.
3. Your provision of cable television service to members on a cooperative basis is a “like organization” activity described in section 501(c)(12)(A) of the Code.
4. Your exemption under section 501(c)(12)(A) of the Code includes providing landline internet, “wireless” internet via satellite, and cable television services on a cooperative basis.
5. The modifications to your bylaws to accommodate patronage credit discounting will not jeopardize your exempt status under section 501(c)(12)(A) of the Code.
6. Your proposed discounting of capital credits is consistent with the requirements of Rev. Rul. 72-36 and does not constitute forfeiture of members’ patronage capital.

This ruling is conditioned on the understanding that there will be no material change in the facts upon which it is based. We express no opinion as to the tax consequences of the transactions under other provisions of the Code.

This ruling will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437, *Notice of Intention to Disclose*. A copy of this ruling with deletions that we intend to make available for public inspection is attached to Notice 437. If you disagree with our proposed deletions, you should follow the instructions in Notice 437.

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

If you have any questions about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter. You should keep a copy for your permanent records.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations
Rulings & Agreements

Enclosure
Notice 437