

§ 1744.205

(c) In determining whether to approve a rural development investment that may cause the borrower to exceed the maximum investment ratio or to fall below the minimum total assets ratio in the future, RUS will consider annual increases to the borrower's net worth and total assets as might be reasonably anticipated from the borrower's normal operations.

§ 1744.205 Determinations and application of limitations described in § 1744.202.

(a) RUS will not include qualified investments, including qualified investments in affiliated companies, in calculating the amount of dividend or capital distributions a borrower may make under its RUS mortgage.

(b) A borrower's investment in its net plant shall not be considered a rural development investment for purposes of calculating the maximum investment ratio or the minimum total assets ratio.

(c) The borrower's net worth and total assets shall be determined using the balances of the respective accounts of the borrower as of December 31 of the last complete calendar year preceding the date on which the borrower's maximum investment ratio and minimum total assets ratio are calculated.

(d) All determinations required to be made under 7 U.S.C. 926 or this subpart will be made in accordance with the Uniform System of Accounts (USoA)(47 CFR part 32). References to specific USoA accounts shall include revised or replacement accounts.

§ 1744.206 Effect of subsequent failure to maintain ratios.

If an expenditure constitutes a qualified investment under the terms of this subpart, it does not cease to be a qualified investment merely because subsequently the borrower fails to maintain the maximum investment ratio or the minimum total assets ratio.

§ 1744.207 Investment not to jeopardize loan security.

A borrower shall not make a qualified investment or a rural development investment which jeopardizes:

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(a) The security of loans made or guaranteed by RUS; or

(b) The borrower's ability to repay such loans under the terms and conditions as agreed.

§ 1744.208 Rural development investments before November 28, 1990.

All investments made by a borrower shall be subject to the provisions of this subpart, regardless of when the investment was made or whether it has been approved by RUS. Any restrictions required by RUS as a condition to approving a rural development investment before November 28, 1990, shall continue to be in effect to the extent that such investment exceeds the maximum investment ratio or causes the borrower to fall below the minimum total assets ratio.

§ 1744.209 Records.

(a) The records of borrowers, including records relating to qualified investments, shall be subject to the auditing procedures prescribed in part 1773 of this chapter. RUS reserves the right to review the records of the borrower relating to qualified investments to determine if the borrower is in compliance with this subpart.

(b) Borrowers shall report to RUS on the end-of-year operating report, RUS Form 479, the current status and principal amount of each qualified investment it has made or is committed to make pursuant to § 1744.202.

(Approved by the Office of Management and Budget under control number 0572-0098.)

§ 1744.210 Effect of this subpart on RUS loan contract and mortgage.

(a) Except as expressly provided in this subpart, the borrower shall comply with all provisions of its loan contract with RUS, its notes issued to RUS, and the RUS mortgage, including all provisions thereof relating to investments not covered by this subpart.

(b) Nothing in this subpart shall affect any rights of supplemental lenders under the RUS mortgage, or other creditors of the borrower, to limit a borrower's investments, loans and guarantees to levels below those permitted in § 1744.202.

(c) As used in paragraph (b) of this section, supplemental lender means a

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creditor of the borrower, other than RUS, whose loan to the borrower is secured by the RUS mortgage.

PART 1748—POST-LOAN POLICIES AND PROCEDURES FOR INSURED TELEPHONE LOANS [RESERVED]

PART 1751—TELECOMMUNICATIONS SYSTEM PLANNING AND DESIGN CRITERIA, AND PROCEDURES

Subpart A [Reserved]

1751.1–1751.99 [Reserved]

Subpart B—State Telecommunications Modernization Plan

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AUTHORITY: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*; Pub. L. 103-354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

SOURCE: 60 FR 8174, Feb. 13, 1995, unless otherwise noted.

Subpart A [Reserved]

§§ 1751.1–1751.99 [Reserved]

Subpart B—State Telecommunications Modernization Plan

§ 1751.100 Definitions.

As used in this subpart:

Bit rate. The rate of transmission of telecommunications signals or intelligence in binary (two state) form in bits per unit time, e.g., Mb/s (megabits per second), kb/s (kilobits per second), etc.

Borrower. Any organization that has received an RUS loan designation number and which has an outstanding telephone loan made by RUS or the Rural Telephone Bank, or guaranteed by RUS, or which has a completed loan application with RUS.

Emerging technologies. New or not fully developed methods of telecommunications.

Modernization Plan (State Telecommunications Modernization Plan). A State plan, which has been approved by RUS, for improving the telecommunications network of those Telecommunications Providers covered by the plan. A Modernization Plan must conform to the provisions of this subpart.

New facilities. Facilities which are wholly or partially constructed or reconstructed after a short- or medium-term requirements start date, as appropriate. This does not include connections or capacity extensions within the wired capacity of existing plant such as adding line cards to existing equipment.

Plan Developer. The entity creating the Modernization Plan for the State, which may be the State PUC, the State legislature, or a numeric majority of the RUS Borrowers within the State. When this part refers to the PUC as the Plan Developer, this includes the State legislature.

PUC (Public Utilities Commission). The public utilities commission, public service commission or other State body with such jurisdiction over rates, service areas or other aspects of the services and operation of providers of telecommunications services as vested in the commission or other body authority, to the extent provided by the State, to guide development of telecommunications services in the State. When this part refers to the PUC as the Plan Developer, this includes the State legislature.

RE Act. The Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*).

REA. The Rural Electrification Administration, formerly an agency of the United States Department of Agriculture and predecessor agency to RUS with respect to administering certain electric and telephone loan programs.

RELRA. The Rural Electrification Loan Restructuring Act of 1993 (107 Stat. 1356).

RUS. The Rural Utilities Service, an agency of the United States Department of Agriculture established pursuant to Section 232 of the Federal Crop Insurance Reform and Department of