

Rural Utilities Service, USDA

§ 1710.106

Federal Financing Bank loans. (See 7 CFR part 1786.)

[57 FR 2832, Jan. 24, 1992, as amended at 58 FR 66264, Dec. 20, 1993; 66 FR 66294, Dec. 26, 2001]

§ 1710.103 Area coverage.

(a) Borrowers shall make a diligent effort to extend electric service to all unserved persons within their service area who:

(1) Desire electric service; and

(2) Meet all reasonable requirements established by the borrower as a condition of service.

(b) If economically feasible and reasonable considering the cost of providing such service and/or the effects on all consumers' rates, such service shall be provided, to the maximum extent practicable, at the rates and minimum charges established in the borrower's rate schedules, without the payment by such persons, other than seasonal or temporary consumers, of a contribution in aid of construction. A seasonal consumer is one that demands electric service only during certain seasons of the year. A temporary consumer is a seasonal or year-round consumer that demands electric service over a period of less than five years.

(c) Borrowers may assess contributions in aid of construction provided such assessments are consistent with the policy set forth in this section.

[57 FR 1053, Jan. 9, 1992, as amended at 60 FR 67404, Dec. 29, 1995]

§ 1710.104 Service to non-RE Act beneficiaries.

(a) To the greatest extent practical, loans are limited to providing and improving electric facilities to serve consumers that are RE Act beneficiaries. When it is determined by the Administrator to be necessary in order to furnish or improve electric service in rural areas, loans may, under certain circumstances, be made to finance electric facilities to serve consumers that are not RE Act beneficiaries.

(b) Loan funds may be approved for facilities to serve non-RE Act beneficiaries only if:

(1) The primary purpose of the loan is to furnish or improve service for RE Act beneficiaries; and

(2) The use of loan funds to serve non-RE Act beneficiaries is necessary and incidental to the primary purpose of the loan.

[57 FR 1053, Jan. 9, 1992; 57 FR 4513, Feb. 5, 1992, as amended at 58 FR 66264, Dec. 20, 1993]

§ 1710.105 State regulatory approvals.

(a) In States where a borrower is required to obtain approval of a project or its financing from a state regulatory authority, RUS may require that such approvals be obtained, if feasible for the borrower to do so, before the following types of loans are approved by RUS:

(1) Loans requiring an Environmental Impact Statement;

(2) Loans to finance generation and transmission facilities, when the loan request for such facilities is \$25 million or more; and

(3) Loans for the purpose of assisting borrowers to implement demand side management and energy conservation programs and on and off grid renewable energy systems.

(b) At minimum, in the case of all loans in states where state regulatory approval is required of the project or its financing, such state approvals will be required before loan funds are advanced.

(c) In cases where state regulatory authority approval has been obtained, but the borrower has failed to proceed with the project in a timely manner according to the schedule contained in the borrower's project design manual, or if there are cost overruns or other developments that threaten loan feasibility or security, RUS may require the borrower to obtain a reaffirmation of the project and its financing from the state authority before any additional loan funds are advanced.

[57 FR 1053, Jan. 9, 1992; 57 FR 4513, Feb. 5, 1992, as amended at 58 FR 66265, Dec. 20, 1993]

§ 1710.106 Uses of loan funds.

(a) Funds from loans made or guaranteed by RUS may be used to finance:

(1) *Distribution facilities.* (i) The construction of new distribution facilities or systems, the cost of system improvements and removals less salvage value, the cost of ordinary replacements and removals less salvage value,

needed to meet load growth requirements, improve the quality of service, or replace existing facilities.

(ii) The purchase, rehabilitation and integration of existing distribution facilities and associated service territory when the acquisition is an incidental and necessary means of providing or improving service to persons in rural areas who are not receiving adequate central station service, and the borrower is unable to finance the acquisition from other sources. See §1710.107.

(2) *Transmission and generation facilities.* (i) The construction of new transmission and generation facilities or systems, the cost of system improvements and removals, less salvage value, the cost of ordinary replacements and removals less salvage value, needed to meet load growth, improve the quality of service, or replace existing facilities.

(ii) The purchase of an ownership interest in new or existing transmission or generation facilities to serve RE Act beneficiaries.

(3) *Warehouse and garage facilities.* The purchase, remodeling, or construction of warehouse and garage facilities required for the operation of a borrower's system. See paragraph (b) of this section.

(4) *Interest.* The payment of interest on indebtedness incurred by a borrower to finance the construction of generation and transmission facilities during the period preceding the date such facilities are placed into service, if requested by the borrower and found necessary by RUS.

(5) Certain costs incurred in demand side management, energy conservation programs and on and off grid renewable energy systems.

(b) In cases of financial hardship, as determined by the Administrator, loans may also be made to finance the following items:

(1) The headquarters office and other headquarters facilities in addition to those cited in paragraph (a)(4) of this section;

(2) General plant equipment, including furniture, office, transportation, data processing and other work equipment; and

(3) Working capital required for the initial operation of a new system.

(c) RUS will not make loans to finance the following:

(1) Electric facilities, equipment, appliances, or wiring located inside the premises of the consumer, except qualifying items included in a loan for demand side management or energy resource conservation programs, or on or off grid renewable energy systems;

(2) Facilities to serve consumers who are not RE Act beneficiaries unless those facilities are necessary and incidental to providing or improving electric service in rural areas (See §1710.104);

(3) Any facilities or other purposes that a state regulatory authority having jurisdiction will not approve for inclusion in the borrower's rate base, or will not otherwise allow rates sufficient to repay with interest the debt incurred for the facilities or other purposes; and

(4) Any facilities or other specific purposes that were included in a loan made or guaranteed by RUS that the borrower has prepaid or that has been rescinded.

(d) A distribution borrower may request a loan period of up to 4 years. Except in the case of loans for new generating and associated transmission facilities, a power supply borrower may request a loan period of not more than 4 years for transmission and substation facilities and improvements or replacements of generation facilities. The loan period for new generating facilities is determined on a case by case basis. The loan period for DSM activities will be determined in accordance with §1710.355. The Administrator may approve a loan period shorter than the period requested by the borrower, if in the Administrator's sole discretion, a loan made for the longer period would fail to meet RUS requirements for loan feasibility and loan security set forth in §§1710.112 and 1710.113, respectively.

(e)(1) If, in the sole discretion of the Administrator, the amount authorized for lending for municipal rate loans, hardship rate loans, and loan guarantees in a fiscal year is substantially less than the total amount eligible for RUS financing, RUS may limit the size of all loans of that type approved during the fiscal year. Depending on the amount of the shortfall between the

amount authorized for lending and the loan application inventory on hand for each type of loan, RUS may either reduce the amount on an equal proportion basis for all applicants for that type of loan based on the amount of funds for which the applicant is eligible, or may shorten the loan period for which funding will be approved to less than the maximum of 4 years. All applications for the same type of loan approved during a fiscal year will be treated in the same manner, except that RUS will not limit funding to any borrower requesting an RUS loan or loan guarantee of \$1 million or less.

(2) If RUS limits the amount of loan funds approved for borrowers, the Administrator shall notify all electric borrowers early in the fiscal year of the manner in which funding will be limited. The portion of the loan application that is not funded during that fiscal year may, at the borrower's option, be treated as a second loan application received by RUS at a later date. This date will be determined by RUS in the same manner for all affected loans and will be based on the availability of loan funds. The second loan application shall be considered complete except that the borrower must submit a certification from a duly authorized corporate official stating that funds are still needed for loan purposes specified in the original application and must notify RUS of any changes in its circumstances that materially affects the information contained in the original loan application or the primary support documents. See 7 CFR 1710.401(f).

(f)(1) For borrowers having one or more loans approved on or after October 1, 1991, advances of funds will be made only for the primary budget purposes included in the loan as shown on RUS Form 740c as amended and approved by RUS, or on a construction work plan or a construction work plan amendment approved by RUS. Each advance will be charged to the oldest outstanding note(s) having unadvanced funds for the primary budget purpose for which the request for advances was made, regardless of whether such notes are associated with loans approved before or after October 1, 1991, unless any conditions on advances under any of

these notes have not been met by the borrower.

(2) For borrowers whose most recent loan was approved before October 1, 1991, advances will be made on the oldest outstanding note having unadvanced funds, unless any conditions on advances under such note have not been met by the borrower.

[57 FR 1053, Jan. 9, 1992, as amended at 58 FR 66265, Dec. 20, 1993; 60 FR 3730, Jan. 19, 1995; 62 FR 7922, Feb. 21, 1997; 64 FR 33178, June 22, 1999]

§ 1710.107 Amount lent for acquisitions.

The maximum amount that will be lent for an acquisition is limited to the value of the property, as determined by RUS. If the acquisition price exceeds this amount, the borrower shall provide the remainder without RUS financial assistance.

§ 1710.108 Mergers and consolidations.

(a) RUS encourages its borrowers to consider merging or consolidating with another electric borrower when such action will contribute to greater operating efficiency and financial soundness.

(b) After a merger or consolidation, RUS will give priority consideration per § 1710.119 to the processing of loans for the surviving system to finance the integration and rehabilitation of electric facilities, if necessary, and the improvement or extension of electric service in rural areas. Such priority consideration will also be given in the case of a borrower that has merged or consolidated with an electric system that has not previously received RUS financial assistance, if such system was serving primarily rural residents at the time of the merger or consolidation and such rural residents will continue to be served by the merged or consolidated system. RUS does not make loans for costs incurred in effectuating mergers or consolidations, such as legal expenses or feasibility study costs.

§ 1710.109 Reimbursement of general funds and interim financing.

(a) Borrowers may request that a loan include funds to reimburse general funds and/or replace interim financing