

**§ 1717.853**

**7 CFR Ch. XVII (1-1-08 Edition)**

(6) The refinancing of existing debt secured under the mortgage;

(7) Interest during construction of generation and transmission facilities if approved by RUS, case by case, depending on the financial condition of the borrower, the terms of the financing, the nature of the construction, the treatment of these costs by regulatory authorities having jurisdiction, and such other factors deemed appropriate by RUS; and

(8) Lien subordinations for certain rural development investments, as provided in § 1717.858.

(b) *Purposes ineligible.* The following financing purposes are not eligible for a lien accommodation or subordination from RUS:

(1) Working capital, including operating funds, unless in the judgment of RUS the working capital is required to ensure the repayment of RUS loans and/or other loans secured under the mortgage;

(2) Facilities, equipment, appliances, or wiring located inside the premises of the consumer, except:

(i) Certain load-management equipment (see 7 CFR 1710.251(c));

(ii) Renewable energy systems and RUS-approved programs of demand side management and energy conservation; and

(iii) As determined by RUS on a case by case basis, facilities included as part of certain cogeneration projects to furnish electric and/or steam power to end-user customers of the borrower;

(3) Investments in a lender required of the borrower as a condition for obtaining financing; and

(4) Debt incurred by a distribution or power supply borrower to finance facilities, equipment or other assets that are not part of the borrower's electric system or one of the four community infrastructure systems cited in paragraph (a)(3) of this section, except for certain rural development investments eligible for a lien subordination under § 1717.858.

(c) *Lien subordination for electric utility investments.* RUS will consider subordinating its lien on specific electric utility assets financed by the lender, when the assets can be split off without materially reducing the stability, safety, reliability, operational efficiency,

or liquidation value of the rest of the system.

[58 FR 53843, Oct. 19, 1993, as amended at 59 FR 3986, Jan. 28, 1994; 60 FR 67409, Dec. 29, 1995]

**§ 1717.853 Loan terms and conditions.**

(a) *Terms and conditions.* A loan, bond or other financing instrument, for which a lien accommodation or subordination is requested from RUS, must comply with the following terms and conditions:

(1) The maturity of the loan or bond used to finance facilities or other capital assets must not exceed the weighted average of the expected remaining useful lives of the assets being financed;

(2) The loan or bond must have a maturity of not less than 5 years, except for loans or bonds used to refinance debt that has a remaining maturity of less than 5 years;

(3) The principal of the loan or bond must be amortized at a rate that will yield a weighted average life not greater than the weighted average life that would result from level payments of principal and interest; and

(4) The loan, or any portion of the loan, may bear either a variable (set annually or more frequently) or a fixed interest rate.

(b) *RUS approval.* Loan terms and conditions and the loan agreement between the borrower and the lender are subject to RUS approval. However, RUS will usually waive its right of approval for distribution borrowers that meet the conditions for advance approval of a lien accommodation or subordination set forth in § 1717.854. RUS may also waive its right of approval in other cases. RUS's decision to waive its right of approval will depend on the adequacy of security for RUS's loans, the current and projected financial strength of the borrower and its ability to meet its financial obligations, RUS's familiarity with the lender and its lending practices, whether the transaction is ordinary or unusual, and the uncertainty and credit risks involved in the transaction.