

Rural Utilities Service, USDA

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study to demonstrate that the proposed generation and associated transmission facilities are the most economical and effective means of meeting the borrower's power requirements. This study usually is a separate study but it may be integrated with the financial forecast required by § 1710.302.

(b) A power cost study shall include the following basic elements:

(1) A study of all reasonably available self-generation, purchased-power, load management, and energy conservation alternatives as set forth in §§ 1710.253 and 1710.254;

(2) A present-value analysis of the costs of the alternatives and their effects on total power costs, covering a period of at least 10 years beyond the projected in-service date of the facilities;

(3) A description of proposed new power-purchase contracts or revisions to existing contracts, and an analysis of the effects on power costs;

(4) Use of sensitivity analyses to determine the vulnerability of the alternatives to a reasonable range of assumptions about fuel costs, failure to achieve projected load growth, changes in operating and financing costs, and other major factors, if the financial forecast is used in support of a loan or loan guarantee that exceeds the smaller of \$25 million or 10 percent of the borrower's total utility plant. Individual sensitivity analyses need not be duplicated if they have been included in other materials submitted to RUS; and

(5) Assessment of the financial risks of the various alternatives, especially as between capital-intensive and non-capital-intensive alternatives, under the range of assumptions set forth in paragraph (b)(4) of this section.

(c) Power cost studies must use current, RUS-approved power requirements data, and all major assumptions are subject to RUS approval. Alternative assumptions about projected power requirements may be used, however, in conjunction with the sensitivity analyses required by paragraph (b)(4) of this section.

(Approved by the Office of Management and Budget under control number 0572-0032)

§§ 1710.304-1710.349 [Reserved]

Subpart H [Reserved]

Subpart I—Application Requirements and Procedures for Loans

SOURCE: 60 FR 3731, Jan. 19, 1995, unless otherwise noted.

§ 1710.400 Initial contact.

(a) Loan applicants that do not have outstanding loans from RUS should write to the Rural Utilities Service Administration, United States Department of Agriculture, Washington, DC 20250-1500. A field or headquarters staff representative may be assigned by RUS to visit the applicant and discuss its financial needs and eligibility. Borrowers that have outstanding loans should contact their assigned RUS general field representative (GFR) or, in the case of a power supply borrower, the Director, Power Supply Division. Borrowers may consult with RUS field representatives and headquarters staff, as necessary.

(b) Before submitting an application for an insured loan the borrower shall ascertain from RUS the amount of supplemental financing required, as set forth in § 1710.110. If the borrower is applying for either a municipal rate loan subject to the interest rate cap or a hardship rate loan, the application must provide a preliminary breakdown of residential consumers either by county or by census tract. Final data must be included with the application. See § 1710.401(a)(8).

§ 1710.401 Loan application documents.

(a) *All borrowers.* All applications for electric loans shall include the documents listed in this paragraph. The first page of the application shall be a list of the documents included in the application. The borrower may use RUS Form 726, Checklist for Electric Loan Application, or a computer generated equivalent as this list.

(1) *Transmittal letter.* A letter signed by the borrower's manager indicating

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the actual corporate name and taxpayer identification number of the borrower and addressing the following items:

- (i) The need for flood hazard insurance;
- (ii) Breakdown of requested loan funds by state;
- (iii) A listing of the counties served by the borrower;
- (iv) A listing of threatened actions by third parties that could adversely affect the borrower's financial condition, including annexations or other actions affecting service territory, loads, or rates; and
- (v) A listing of pending regulatory proceedings pertaining to the borrower.

(2) *Board resolution.* This document is the formal request by the borrower's board of directors for a loan from RUS. The board resolution shall include:

- (i) The requested loan type, loan amount, loan term, final maturity and method of amortization (§1710.110(b));
- (ii) The sources and amounts of any supplemental or other financing;
- (iii) Authorization for RUS to release appropriate information to supplemental or other lender(s), and authorization for these lenders to release appropriate information to RUS; and
- (iv) For an insured loan, a statement of whether the application is for a municipal rate loan, with or without the interest rate cap, or a hardship loan. If the application is for a municipal rate loan, the board resolution must indicate whether the borrower intends to elect the prepayment option. See 7 CFR 1714.4(c).

(3) *RUS Form 740c, Cost Estimates and Loan Budget for Electric Borrowers.* This form together with its attachments lists the construction, equipment, facilities and other cost estimates from the construction work plan or engineering and cost studies, and the sources of financing for each component. The date on page 1 of the form is the beginning date of the loan period and shall be the same as the date on the Financial and Statistical Report submitted with the application (paragraph (a)(5) of this section). Form 740c also includes the following information, exhibits, and attachments:

- (i) *Description of funds and materials.* This description details the avail-

ability of materials and equipment, any unadvanced funds from prior loans, and any general funds the borrower designates, to determine the amount of such materials and funds to be applied against the capital requirements estimated for the loan period.

(ii) *Useful life of facilities financed by the loan.* Form 740c must include, as a note, either a statement certifying that at least 90 percent of the loan funds are for facilities that have a useful life of 33 years or longer, or a schedule showing the costs and useful life of those facilities with a useful life of less than 33 years. This statement or schedule will be used to determine the final maturity of the loan. See §1710.115.

(iii) *Reimbursement schedule.* This schedule lists the date, amount, and identification number of each inventory of work orders and special equipment summary that form the basis for the borrower's request for reimbursement of general funds on the RUS Form 740c. See §1710.109. If the borrower is not requesting reimbursement, this schedule need not be submitted.

(iv) *Location of consumers.* If the application is for a municipal rate loan subject to the interest rate cap, or for a loan at the hardship rate, and the average number of consumers per mile of the total electric system exceeds 17, Form 740c must include, as a note, a breakdown of funds included in the proposed loan to furnish or improve service to consumers located in an urban area. See 7 CFR 1714.7(c) and 1714.8(d). This breakdown must indicate the method used by the borrower for allocating loan funds between urban and non urban consumers.

(4) *RUS Form 740g, Application for Headquarters Facilities.* This form lists the individual cost estimates from the construction work plan or other engineering study that support the need for RUS financing for any warehouse and service type facilities included, and funding requested for such facilities shown on RUS Form 740c. If no loan funds are requested for headquarters facilities, Form 740g need not be submitted.

(5) *Financial and statistical report.* Distribution borrowers shall submit these data on RUS Form 7; power supply borrowers shall use RUS Form 12. The

form shall contain the most recent data available, which shall not be more than 60 days old when received by RUS.

(6) *Pending litigation statement.* A statement from the borrower's counsel listing any pending litigation, including levels of related insurance coverage and the potential effect on the borrower. This statement and the statements from counsel required by paragraphs (a)(7) and (15) of this section may be combined into a single document.

(7) *Mortgage information.* A new mortgage will be required if this is a borrower's first application for a loan under the RE Act. A restated mortgage, or a mortgage supplement will be required if there has been a material change to the real property owned by the borrower since the most recent RUS loan, loan guarantee, or lien accommodation, if the requested loan would cause the borrower to exceed its previously authorized debt limit, or if RUS otherwise determines it necessary. If there has been no material change to the real property owned by the borrower since the most recent RUS loan or loan guarantee, the borrower must submit an opinion of its counsel to that effect. If a new or restated mortgage or a mortgage supplement is required, the borrower must provide the following:

(i) *Property schedule.* For a new or restated mortgage or for a mortgage supplement, the following information shall be submitted in a form satisfactory to RUS:

(A) A listing of the counties where the borrower's existing electric facilities and new facilities are or will be located;

(B) A listing and description of all real property owned by the borrower; and

(C) An opinion of the borrower's counsel certifying that the property schedule is complete and adequate for inclusion in a security instrument to be executed by the borrower to secure an RUS loan.

(ii) *Maximum debt limit.* For a new mortgage, or if the proposed loan would result in the borrower's existing mortgage debt limit being exceeded, a resolution of the borrower's board of directors, and any other authorizations

or certifications required by State law, certifying that a new debt limit has been legally established that is adequate to accommodate existing indebtedness and the proposed new financing, including any concurrent loans.

(8) *Rate disparity and consumer income data.* If the borrower is applying under the rate disparity and consumer income tests for either a municipal rate loan subject to the interest rate cap or a hardship rate loan, the application must provide a breakdown of residential consumers either by county or by census tract. In addition, if the borrower serves in 2 or more states, the application must include a breakdown of all ultimate consumers by state. This breakdown may be a copy of Form EIA 861 submitted by the Borrower to the Department of Energy or in a similar form. See 7 CFR 1714.7(b) and 1714.8(a). To expedite the processing of loan applications, RUS strongly encourages distribution borrowers to provide this information to the GFR prior to submitting the application.

(9) *Standard Form 100—Equal Employment Opportunity Employer Report EEO—1.* This form, required by the Department of Labor, sets forth employment data for borrowers with 100 or more employees. A copy of this form, as submitted to the Department of Labor, is to be included in the application for an insured loan if the borrower has more than 100 employees. See § 1710.122.

(10) *Form AD-1047, Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions.* This statement certifies that the borrower will comply with certain regulations on debarment and suspension required by Executive Order 12549, Debarment and Suspension (3 CFR, 1986 Comp., p. 189). See 7 CFR part 3017 and § 1710.123.

(11) *Uniform Relocation Act assurance statement.* This assurance, which need not be resubmitted if previously submitted, provides that the borrower shall comply with 49 CFR part 24, which implements the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended by the Uniform Relocation Act Amendments of 1987 and 1991. See § 1710.124.

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(12) *Lobbying.* The following information on lobbying is required pursuant to 7 CFR part 3018 and §1710.125. Borrowers applying for both insured and guaranteed financing should consult RUS before submitting this information.

(i) *Certification regarding lobbying.* This statement certifies that the borrower shall comply with certain requirements with respect to restrictions on lobbying activities.

(ii) *Standard Form LLL—Disclosure of Lobbying Activities.* This disclosure form is required from those borrowers engaged in lobbying activities.

(13) *Federal debt delinquency requirements.* See 1710.126. The following documents are required:

(i) *Report on Federal debt delinquency.* This report indicates whether or not a borrower is delinquent on any Federal debt.

(ii) *Certification Regarding Federal Government Collection Options.* This statement certifies that a borrower has been informed of the collection options the Federal Government may use to collect delinquent debt. The Federal Government is authorized by law to take any or all of the following actions in the event that a borrower's loan payments become delinquent or the borrower defaults on its loans:

(A) Report the borrower's delinquent account to a credit bureau;

(B) Assess additional interest and penalty charges for the period of time that payment is not made;

(C) Assess charges to cover additional administrative costs incurred by the Government to service the borrower's account;

(D) Offset amounts owed directly or indirectly to the borrower under other Federal programs;

(E) Refer the borrower's debt to the Internal Revenue Service for offset against any amount owed to the borrower as an income tax refund;

(F) Refer the borrower's account to a private collection agency to collect the amount due; and

(G) Refer the borrower's account to the Department of Justice for collection.

(14) *Articles of incorporation and bylaws.* The following are required if either document has been amended since

the last loan application was submitted to RUS, or if this is a borrower's first application for a loan under the RE Act:

(i) The borrower's articles of incorporation currently in effect, as filed with the appropriate state office, setting forth the borrower's corporate purpose; and

(ii) The bylaws currently in effect, as adopted by the borrower's board of directors, setting forth the manner by which the borrower's organization will be governed and regulated.

(15) *State regulatory approvals.* In states in which regulatory authorities have jurisdiction over the borrower's rates, the borrower must provide satisfactory evidence, pursuant to §§1710.105 and 1710.151(f), based on the information available, such as an opinion of counsel or of another qualified source, that the state regulatory authority will not exclude from the borrower's rate base any of the facilities included in the loan request, or otherwise prevent the borrower from charging rates sufficient to repay with interest the debt incurred for the facilities.

(16) *Seismic safety certifications.* This certification shall be included, if required under 7 CFR part 1792.

(17) *Rates.* (i) A distribution borrower shall explain any recent or planned changes in retail rates, the status of any pending rate cases before a state regulatory authority, or other pertinent rate information.

(ii) A power supply borrower shall submit a schedule of its wholesale rates currently in effect. Any changes in this schedule are subject to RUS approval.

(18) *Additional supporting data.* Additional supporting data may be required by RUS depending on the individual application or conditions. Examples of such additional supporting data include information about acquisitions, headquarters facilities, generation or transmission facilities, large power loads or special loads.

(b) *Distribution borrowers.* In addition to the items in paragraph (a) of this section, applications for loans submitted by distribution borrowers shall include the borrower's area coverage and line extension policies. If there have been any amendments to area

coverage or line extension policies since the last loan application submitted to RUS, or if this is a borrower's first application for a loan under the RE Act, the borrower shall submit the board of directors' approved policies on area coverage and line extensions. See §§1710.103 and 1710.151(a).

(c) *Primary support documents.* In addition to the loan application, consisting of the documents required by paragraphs (a) and (b) of this section, all borrowers must also provide RUS with the following primary support documents pursuant to §1710.152:

(1) Along with the loan application, the borrower shall submit to RUS a Long-Range Financial Forecast (LRFF), that meets the requirements of subpart G of this part. The forecast shall include any sensitivity analysis or analysis of alternative scenarios required by subpart G of this part, and shall be accompanied by a certified board resolution adopting, and indicating the board of directors' approval of, the LRFF, and directing management to take whatever steps may be necessary, including the filing for rate increases, to achieve the TIER goals set forth in the LRFF.

(2) Prior to RUS's acceptance of the loan application, the borrower shall submit to RUS and receive approval of:

(i) Power Requirements Study (PRS) that meets the requirements of subpart E of this part, and is accompanied by a certified board resolution adopting, and indicating the board of directors' approval of, the PRS.

(ii) Construction Work Plan (CWP) and/or related engineering and cost studies that meets the requirements of subpart F of this part, and is accompanied by a certified board resolution adopting, and indicating the board of directors' approval of, the CWP and/or engineering and cost studies.

(iii) Borrower's Environmental Report (BER), or other environmental information as required by 7 CFR part 1794.

(iv) Demand Side Management Plan and/or Integrated Resource Plan, if required by subpart H of this part.

(d) *Submission of documents.* (1) Generally, all information required by paragraphs (a), (b), and (c)(1) of this section is submitted to RUS in a single

application package. The information required by paragraph (c)(2) of this section is generally submitted to, and approved by RUS before the application is submitted.

(2) To facilitate loan review, RUS urges borrowers to ensure that their applications contain all of the information required by this section before submitting the application to RUS. Borrowers may consult with RUS field representatives and headquarters staff as necessary for assistance in preparing loan applications.

(3) RUS may, in its discretion, return an application to the borrower if the application is not materially complete to the satisfaction of RUS within 10 months of receipt of any of the items listed in paragraph (a) or (b) of this section. RUS will generally advise the borrower in writing at least 2 months prior to returning the application as to the elements of the application that are not complete.

(4) If an application is returned, an application for the same loan purposes will be accepted by RUS if satisfactory evidence is provided that all of the information required by this section will be submitted to RUS within a reasonable time. An application for loan purposes included in an application previously returned to the borrower will be treated as an entirely new application.

(e) *Complete applications.* An application is complete when all information required by RUS to approve a loan is materially complete in form and substance satisfactory to RUS.

(f) *Change in borrower circumstances.* A borrower shall, after submitting a loan application, promptly notify RUS of any changes in its circumstances that materially affect the information contained in the loan application or in the primary support documents.

(g) *Interest rate category.* For pending loans, RUS will promptly notify the borrower if its eligibility for an interest rate category changes pursuant to new information from the Department of Energy or the Bureau of the Census. See 7 CFR part 1714.

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