

## Rural Utilities Service, USDA

## § 1717.351

a timely fashion, RUS may proceed to exercise any and all rights and remedies available pursuant under the RUS documents or otherwise.

(d) The jurisdiction of the state regulatory authority over the rates of the borrower shall continue to be pre-empted hereunder until the Administrator shall in writing approve the resumption of jurisdiction by the state regulatory authority and publish in the FEDERAL REGISTER a notice to such effect. The Administrator shall approve resumption only after determining that such jurisdiction shall be exercised in a manner consistent with Federal interests.

[55 FR 38646, Sept. 19, 1990; 55 FR 53100, Dec. 26, 1990]

### § 1717.307 Distribution members' rates.

A state regulatory authority which has been pre-empted as provided in this subpart may continue to exercise jurisdiction, pursuant to applicable provisions of state law, over all other business affairs of the power supply borrower and over the rates of its distribution members: Provided, however, that the state regulatory authority shall treat any RUS approved rate for the power supply borrower as fair and reasonable and shall not in any manner, directly or indirectly, prevent or impede the distribution member from recovering the costs of paying the RUS approved rates to the power supply borrower.

### § 1717.308 RUS approval of nonconforming rates.

Borrowers may request and RUS may approve rates which do not conform with the requirements of the RUS wholesale power contract and other RUS documents if RUS determines, in its sole discretion, that such approval is in the interests of RUS. If RUS approval is granted prior to pre-emption hereunder, and if the state regulatory authority shall have approved such rates, then, so long as RUS's approval of the nonconforming rates remains in effect, the jurisdiction of the state regulatory authority over the rates of the borrower shall not be pre-empted hereunder.

### § 1717.309 Additional statutory pre-emption.

This subpart addresses pre-emption of state law and state regulatory authority in only those specific circumstances herein described. Nothing in this subpart waives, limits, or otherwise affects the explicit pre-emption or pre-emption, which is implicit and shall occur pursuant to the RE Act as a matter of law, of state law or action of a state regulatory authority where such state law or such action compromises Federal interests, including the ability of any borrower, including power supply borrowers, to repay loans made or guaranteed by RUS.

### §§ 1717.310–1717.349 [Reserved]

## Subpart H—Federal Pre-emption in Rate Making in Connection With RUS Electric Borrowers in Bankruptcy

SOURCE: 55 FR 38653, Sept. 19, 1990, unless otherwise noted.

### § 1717.350 Purpose.

This subpart contains regulations of the Rural Utilities Service (RUS) implementing provisions of section 4 of the RE Act (7 U.S.C. 904) which authorizes the Administrator to establish terms and conditions of loans, and provisions of the RUS documents which provide for the establishment of rates for electric service to be charged by RUS electric borrowers. This subpart contains the general regulations of RUS for the pre-emption of the regulation by a State Regulatory Authority under State law of an RUS borrower's rates and for the exercise by RUS, pursuant to the RUS documents, of exclusive jurisdiction over rates of a borrower by or against whom a case under the Bankruptcy Code of 1978, as amended, has commenced.

### § 1717.351 Policy.

(a) RUS makes and guarantees loans to borrowers to bring electric service to persons in rural areas. To accomplish this objective, RUS normally requires, as a condition to making or guaranteeing any loans to an electric borrower, that the borrower execute