§ 1717.610 RUS approval of compensation of the board of directors.

If a borrower’s mortgage or loan contract requires the borrower to obtain approval from RUS for compensation provided to members of the borrower’s board of directors, such requirement is hereby waived.

§ 1717.611 RUS approval of expenditures for legal, accounting, engineering, and supervisory services.

(a) If a borrower’s mortgage or loan contract requires the borrower to obtain approval from RUS before incurring expenses for legal, accounting, supervisory (other than for the management and operation of the borrower’s electric system, see §1717.608(d)), or other similar services, such approval is hereby granted. However, while expenditures for accounting do not require RUS approval, the selection of a certified public accountant by the borrower to prepare audited reports required by RUS remains subject to RUS approval.

(b) If a borrower’s mortgage or loan contract requires the borrower to obtain approval from RUS before incurring expenses for engineering services, such approval is hereby granted if such services will not be financed by RUS. Approval requirements with respect to engineering services financed by RUS are set forth in other RUS regulations.

§ 1717.612 RUS approval of borrower’s bank or other depository.

If a borrower’s mortgage or loan contract gives RUS the authority to approve the bank or other depositories used by the borrower, such approval is hereby granted. However, without the prior written approval of RUS, a borrower shall not deposit funds from loans made or guaranteed by RUS in any bank or other depository that is not insured by the Federal Deposit Insurance Corporation or other Federal agency acceptable to RUS, or in any account not so insured.

§ 1717.613 RUS approval of data processing and system control equipment.

If a borrower’s mortgage or loan contract requires the borrower to obtain approval from RUS before purchasing data processing equipment or system control equipment, such approval is hereby granted if the equipment will not be financed by RUS.

§ 1717.614 Notification of rate changes.

If a distribution borrower is required by its loan documents to notify RUS in writing of proposed changes in electric rates more than 30 days prior to the effective date of such rates, the required notification period shall be 30 days. Moreover, such notification shall be required only upon the request of RUS.

§ 1717.615 Consolidations and mergers.

A distribution or power supply borrower may without the prior approval of RUS, consolidate or merge with any other corporation or convey or transfer the mortgaged property substantially as an entirety if the following conditions are met:

(a) Such consolidation, merger, conveyance or transfer shall be on such terms as shall fully preserve the lien and security of the RUS mortgage and the rights and powers of the mortgagees;
§ 1717.616 Sale, lease, or transfer of capital assets.

A distribution borrower may without the prior approval of RUS sell, lease, or transfer any capital asset if the following conditions are met:

(a) The borrower is not in default;

(b) In the most recent year for which data are available, the borrower achieved a TIER of at least 1.25, DSC of at least 1.25, OTIER of at least 1.1, and ODSC of at least 1.1 in each case based on the average or the best 2 out of the 3 most recent years;

(c) The sale, lease, or transfer of assets will not reduce the borrower’s existing or future requirements for energy or capacity being furnished to the borrower under any wholesale power contract which has been pledged as security to the government;

(d) Fair market value is obtained for the assets;

(e) The aggregate value of assets sold, leased, or transferred in any 12-month period is less than 10 percent of the borrower’s net utility plant prior to the transaction;

(f) The proceeds of such sale, lease, or transfer, less ordinary and reasonable expenses incident to such transaction, are immediately:

(1) Applied as a prepayment of all notes secured under the mortgage equally and ratably;

(2) In the case of dispositions of equipment, materials or scrap, applied to the purchase of other property useful in the borrower’s utility business; or

(3) Applied to the acquisition of construction of utility plant.


§ 1717.617 Limitations on distributions.

If a distribution or power supply borrower is required by its loan documents to obtain prior approval from RUS before declaring or paying any dividends, paying or determining to pay any patronage refunds, or retiring any patronage capital, or making any other cash distributions, such approval is hereby given if the following conditions are met:

(a) After giving effect to the distribution, the borrower’s equity will be greater than or equal to 30 percent of its total assets;