

§ 1717.853

(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 sub-

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ordination 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.

§ 1717.854 Advance approval—100 percent private financing of distribution, subtransmission and headquarters facilities, and certain other community infrastructure.

(a) *Policy.* Requests for a lien accommodation or subordination from distribution borrowers for 100 percent private financing of distribution, subtransmission and headquarters facilities, and for community infrastructure listed in §1717.852(a)(3), qualify for advance approval by RUS if they meet the conditions of this section and all other applicable provisions of this subpart. Advance approval means RUS will approve these requests once RUS is satisfied that the conditions of this section and all other applicable provisions of this subpart have been met.

(b) *Eligible purposes.* Lien accommodations or subordinations for the financing of distribution, subtransmission, and headquarters facilities and community infrastructure listed in §1717.852(a)(3) are eligible for advance approval, except those that involve the purchase of existing facilities and associated service territory.

(c) *Qualification criteria.* To qualify for advance approval, the following requirements, as well as all other applicable requirements of this subpart, must be met:

(1) The borrower has achieved a TIER of at least 1.25 and a DSC of at least 1.25 for each of 2 calendar years immediately preceding, or any 2 consecutive 12 month periods ending within 180 days immediately preceding, the issuance of the debt;

(2) The ratio of the borrower's equity, less deferred expenses, to total assets, less deferred expenses, is not less than 27 percent, after adding the principal