§ 1717.304  State regulatory authority rate jurisdiction.

(a) In the event that rate revisions required by the terms of the RUS wholesale power contract or other RUS documents may be subject to the approval of a state regulatory authority, the power supply borrower shall seek such required approval in a timely manner.

(b) RUS recognizes the need of state regulatory authorities for documents, information and records for use in connection with an application for rate approval and will consider any reasonable request by a borrower or a state regulatory authority for such documents, information and records. The failure of RUS to provide requested documents, information or records shall not limit any rights of RUS including the right with respect to pre-emption of the state regulatory authority as provided in this subpart.

(c) In the event that the state regulatory authority shall fail to act favorably upon the borrower’s application for rate increases required by terms of the RUS wholesale power contract or other RUS documents, the borrower shall pursue such legal and administrative appeals as may be available to it, unless RUS shall approve otherwise in writing.

§ 1717.305  Pre-emption.

(a) Inadequate rates. State regulatory authority jurisdiction over a power supply borrower’s rates shall be preempted by the RE Act if the Administrator shall have determined that the borrower’s rates approved by the state regulatory authority are, after taking into account the borrower’s costs and expenses, inadequate to produce revenues sufficient to permit the borrower to make required payments on its secured loans and the borrower has failed to make required payments on its secured loans.

(b) Public notice. The Administrator shall:

(1) Notify the borrower and the state regulatory authority in writing of the determination, indicating the jurisdiction of the state regulatory authority is, over the rates of the borrower has been preempted pursuant to this part and the borrower shall henceforth establish its rates in accordance with the term of the RUS documents.

(2) publish a notice in the Federal Register informing the public of the action.