

Rural Utilities Service, USDA

§ 1714.4

§ 1710.406 Loan approval.

(a) A loan is approved when the Administrator signs the administrative findings.

(b) If the loan is not approved, RUS will notify the borrower of the reason.

§ 1710.407 Loan documents.

Following approval of a loan, RUS will forward the loan documents to the borrower for execution, delivery, recording, and filing, as directed by RUS.

PART 1714—PRE-LOAN POLICIES AND PROCEDURES FOR INSURED ELECTRIC LOANS

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AUTHORITY: 7 U.S.C. 901 *et seq.*; 1921 *et seq.*; and 6941 *et seq.*

SOURCE: 58 FR 66260, Dec. 20, 1993, unless otherwise noted.

Subpart A—General

§ 1714.1 [Reserved]

§ 1714.2 Definitions.

The definitions set forth in 7 CFR 1710.2 are applicable to this part, unless otherwise stated. References to specific RUS forms and other RUS documents, and to specific sections of such forms and documents, shall include the corresponding forms, documents, sections and lines in any subsequent revisions of these forms and documents.

§ 1714.3 Applicability of provisions.

(a) *Insured electric loans approved on or after November 1, 1993.* On November 1, 1993, the Rural Electrification Loan Restructuring Act, Pub. L. 103–129, 107 Stat. 1356, (RELRA) amended the Rural Electrification Act of 1936, 7 U.S.C. 901 *et seq.*, (RE Act) to establish a new interest rate structure for insured electric loans. Insured electric loans approved on or after this date, are either municipal rate loans or hardship rate loans. Borrowers meeting the criteria set forth in §1714.8 are eligible for 5 percent hardship rate loans. The interest rate on loans to other borrowers is the municipal interest rate, and borrowers meeting the criteria set forth in §1714.7 are eligible for the interest rate cap on their municipal rate loans. Interest rates for the initial interest rate term and rollover terms (§1714.6) will be determined pursuant to §1714.4. Provisions for prepayment are set forth in §1714.9. The provisions of this subpart apply to loans approved on or after November 1, 1993, unless otherwise stated.

(b) *Insured electric loans approved prior to November 1, 1993.* These loans have a single interest rate applicable to the entire loan. The rate is generally 5 percent, but, in some cases, may be as low as 2 percent. These loans have a single interest rate term and may be prepaid at face value at any time. Provisions for discounted prepayment of these loans are set forth in 7 CFR part 1786.

§ 1714.4 Interest rates.

(a) *Municipal rate loans.* Each advance of funds on a municipal rate loan shall bear interest at a single rate for each interest rate term. All interest rates applicable to municipal rate loans will be increased by one eighth of one percent (0.125 percent), if the borrower elects to include in the loan agreement a prepayment option (call provision), allowing the borrower to prepay all or a portion of an advance on a date other than a rollover maturity date. However, no interest rate for any advances of a loan to a borrower who qualifies for the interest rate cap may exceed 7 percent.

(b) *Hardship rate loans.* All advances of funds on hardship rate loans shall bear interest at a rate of 5 percent.

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(c) *Application procedure.* The borrower's board resolution submitted with the loan application must indicate whether the application is for a municipal rate loan, with or without the interest rate cap, or a hardship rate loan. If the application is for a municipal rate loan, the board resolution must also indicate whether the borrower intends to elect the prepayment option.

[58 FR 66260, Dec. 20, 1993, as amended at 67 FR 16969, Apr. 9, 2002]

§ 1714.5 Determination of interest rates on municipal rate loans.

(a) RUS will post on the RUS website, Electric Program HomePage, a schedule of interest rates for municipal rate loans at the beginning of each calendar quarter. The schedule will show the year of maturity and the applicable interest rates in effect for all funds advanced on municipal rate loans during the calendar quarter and all interest rate terms beginning in the quarter. All interest rates will be adjusted to the nearest one eighth of one percent (0.125 percent).

(b) The rate for interest rate terms of 20 years or longer will be the average of the 20 year rates published in the Bond Buyer in the 4 weeks specified in paragraph (d) of this section for the "11-Bond GO Index" of Aa rated general obligation municipal bonds, or the successor to this index.

(c) The rate for terms of less than 20 years will be the average of the rates published in the Bond Buyer in the 4 weeks specified in paragraph (d) of this section in the table of "Municipal Market Data—General Obligation Yields" for Aa rated bonds, or the successor to this table, for obligations maturing in the same year as the interest rate term selected by the borrower.

(d) The interest rates on municipal rate loans shall not exceed the interest rate determined under section 307(a)(3)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)(A)) for Water and Waste Disposal loans. The method used to determine this rate is set forth in the regulations of the Farmers Home Administration (FmHA) at 7 CFR 1942.17(f) (1) and (4). Pursuant to the FmHA rule, the interest rates are set using as guid-

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ance the average of the Bond Buyer Index for the four weeks prior to the first Friday of the last month before the beginning of the quarter. Information about the Bond Buyer is available by writing Bond Buyer, One State Street Plaza, New York, NY 10004-1549, or by calling 1-800-982-0633.

[58 FR 66260, Dec. 20, 1993, as amended at 67 FR 16969, Apr. 9, 2002]

§ 1714.6 Interest rate term.

(a) *Municipal rate loans.* Selection of interest rate terms shall be made by the borrower for each advance of funds. The minimum interest rate term shall be one year. RUS will send the borrower written confirmation of each rollover maturity date and the applicable interest rate.

(1) The initial interest rate term will begin on the date of the advance. All rollover interest rate terms will begin on the first day of a month, and except for the last interest rate term to final maturity, shall end on the last day of a month. All terms except for the initial interest rate term on an advance, and the last term to final maturity shall be in yearly increments.

(2) The following limits apply to the number of advances of funds that may be made to the borrower on any municipal rate loan:

(i) If the loan period is 2 years or less, not more than 6 advances;

(ii) If the loan period is more than 2 years, not more than 8 advances.

(3) For the initial interest rate term of an advance, a letter from an authorized official of the borrower indicating the selection of the term shall accompany the request for the advance.

(4) At the end of any interest rate term, the borrower shall pay all accrued interest and principal balance then due, and either prepay the remaining principal of the advance at face value, or roll over the remaining principal for a new term, provided that no interest rate term may end later than the date of the final maturity.

(i) If the borrower elects to prepay all or part of the remaining principal of the advance at face value, it must notify the Director of the appropriate Regional Division or the Power Supply Division in writing not later than 20 days before the rollover maturity date.

(ii) If the borrower wishes to elect a new interest rate term that is different from the term previously selected, it must notify RUS in writing of the new term not later than 20 days before the end of the current term. The election of the new term shall be addressed to the Director, Financial Operations Division, Rural Utilities Service, Washington, DC 20250-1500.

(iii) If the borrower fails to notify RUS within the timeframes set out in this paragraph of its intention to prepay or elect a different interest rate term, RUS will automatically roll over the remaining principal for the shorter of, and at the interest rate applicable to:

(A) A period equal in length to the term that is expiring; or

(B) The remaining period to final maturity.

(b) *Hardship rate loans.* Loans made at the 5 percent hardship rate are made for a single term that cannot exceed the final maturity as set forth in 7 CFR 1710.115. The hardship interest rate applies to the entire amount of the loan.

[58 FR 66260, Dec. 20, 1993, as amended at 60 FR 3734, Jan. 19, 1995]

§ 1714.7 Interest rate cap.

Except as provided in paragraph (c) of this section, the municipal interest rate may not exceed 7 percent on a loan advance to a borrower primarily engaged in providing retail electric service if the borrower meets, at the time of loan approval, either the consumer density test set forth in paragraph (a) of this section, or both the rate disparity test for the interest rate cap and the consumer income test set forth in paragraph (b) of this section.

(a) *Low consumer density test.* The borrower meets this test if the average number of consumers per mile of line of its total electric system, based on the most recent data available at the time of loan approval is less than 5.50.

(b)(1) *Rate disparity test for the interest rate cap.* The borrower meets this test if its average revenue per kWh sold is more than the average revenue per kWh sold by all electric utilities in the state in which the borrower provides service. To determine whether a borrower meets this test, RUS will compare the borrower's average total rev-

enue with statewide data in the table of Average Revenue per Kilowatthour for Electric Utilities by Sector, Census Division and State, in the Electric Power Annual issued by the Energy Information Administration of the Department of Energy (DOE), or the successor to this table. The test will be based on the most recent calendar year for which full year DOE data are available at the time of loan approval and borrower data for the same year.

(2) *Consumer income test.* The borrower meets this test if either the average per capita income of the residents receiving electric service from the borrower is less than the average per capita income of residents of the state in which the borrower provides service or the median household income of the households receiving electric service from the borrower is less than the median household income of the households in the state.

(i) To qualify under the consumer income test, the borrower must include in its loan application information about the location of its residential consumers. The borrower must provide to RUS, based on the most recent data available at the time of loan application, either the number of consumers in each county it serves or the number of consumers in each census tract it serves. Using the most recently published decennial census data on income from the Bureau of the Census, RUS will compare, on a weighted average basis, the average per capita and median household income of the counties or census tracts served by the borrower with state figures.

(ii) In cases where conditions have substantially changed so that the decennial census data no longer accurately describes the economic conditions of the borrower's consumers, the borrower may provide RUS with more current income data from a reliable source such as a State agency. The Administrator has the sole discretion to determine whether such data submitted by the borrower is sufficient to determine whether the borrower qualifies under the consumer income test.

(3) *Borrowers serving 2 or more states.* If a borrower serves consumers in 2 or more states, the rate disparity test and

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the consumer income test will be determined on a weighted average based on the percentage of the borrower's total consumers that are served in each state.

(c) *High density test.* If the average number of consumers per mile of the borrower's total electric system exceeds 17, the interest rate cap will not apply to funds used for the purpose of furnishing or improving electric service to consumers located in an area that is an urban area at the time of loan approval, notwithstanding that the area must have been deemed a rural area for the purpose of qualifying for a loan under this part. (See the definition of "rural area" in 7 CFR 1710.2.) If the average number of consumers per mile of line of the borrower's total electric system exceeds 17, the borrower must include, as a note on RUS Form 740c, Cost Estimates and Loan Budget for Electric Borrowers, submitted as part of the loan application for a loan subject to the interest rate cap, a breakdown of funds included in the proposed loan to furnish or improve service to consumers located in such urban areas. For such borrowers only funds for those facilities serving consumers located outside an urban area are eligible for the interest rate cap.

§ 1714.8 Hardship rate loans.

Except as provided in paragraph (d) of this section, the Administrator shall make an insured electric loan for eligible purposes at the 5 percent hardship rate to a borrower primarily engaged in providing retail electric service if the borrower meets, at the time of loan approval, both the rate disparity test for hardship and the consumer income test described in paragraph (a) of this section; or the extremely high rates test set forth in paragraph (b) of this section. A loan at the 5 percent hardship rate may also be made to any borrower pursuant to paragraph (c) of this section who, in the sole discretion of the Administrator, has experienced a severe hardship. The Administrator may not require a loan from a supplemental source in connection with a hardship rate loan.

(a)(1) *Rate disparity test for hardship.* The borrower meets this test if its average revenue per kWh sold is not less

than 120 percent of the average revenue per kWh sold by all electric utilities in the state in which the borrower provides service, and its average residential revenue per kWh is not less than 120 percent of the average residential revenue per kWh sold by all electric utilities in the state in which the borrower provides service. To determine whether a borrower meets this test, RUS will compare the borrower's average total revenue and average residential revenue with statewide data in the table of Average Revenue per Kilowatt-hour for Electric Utilities by Sector, Census Division and State, in the Electric Power Annual issued by the Energy Information Administration of the Department of Energy (DOE), or the successor to this table. The test will be based on the most recent calendar year for which full year DOE data are available at the time of loan approval and borrower data for the same year.

(2) *Consumer income test.* The borrower meets this test if either the average per capita income of the residents receiving electric service from the borrower is less than the average per capita income of the residents of the state in which the borrower provides service or the median household income of the residents receiving electric service from the borrower is less than the median household income of the households in the state. RUS will determine whether the borrower qualifies under this test according to the procedure set forth in § 1714.7(b)(2).

(3) *Borrowers serving 2 or more states.* If a borrower serves consumers in 2 or more states, the rate disparity test and the consumer income tests will be determined on a weighted average based on the percentage of the borrower's total consumers that are served in each state.

(b) *Extremely high rates test.* Except as provided in this paragraph, the Administrator shall make an insured electric loan at the 5 percent hardship rate to any borrower whose residential revenue exceeds 15.0 cents per kWh sold. Residential revenue shall be calculated for the most recent full calendar year for which data are available and shall include sales to both seasonal and non-seasonal consumers. If, at the time of

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loan approval, the area to be served is an urbanized area (notwithstanding that the area must be deemed a rural area to qualify for a loan under this part (See the definition of “rural area” in 7 CFR 1710.2)), then the borrower must satisfy the provisions of paragraphs (a) and (d) of this section to qualify to the 5 percent hardship interest rate. If at the time of loan approval, such area is outside an urbanized area, the loan shall not be subject to the conditions and limitations set forth in paragraphs (a) and (d) of this section.

(c) *Administrator’s discretion.* The Administrator may make a hardship rate loan if, in the sole discretion of the Administrator, the borrower has experienced a severe hardship. The Administrator shall consider, among other matters, whether factors beyond the control or substantial influence of the borrower have had severe adverse effect on the borrower’s ability to provide service consistent with the purposes of the RE Act, and which prudent management could not reasonably anticipate and either prevent or insure against. Among the factors that may be considered are system damage due to unusual weather or other natural disasters or Acts of God, loss of substantial loads, extreme rate disparity compared to a contiguous utility, and other factors that cause severe financial hardship. The Administrator will also consider whether a hardship rate loan will provide significant relief to the borrower in dealing with the severe hardship.

(d) *High density test.* Except as provided in paragraph (b) of this section, if the average number of consumers per mile of the borrower’s total electric system exceeds 17, the 5 percent hardship rate will not apply to funds used for the purpose of furnishing or improving electric service to consumers located in an area that is an urban area at the time of loan approval, notwithstanding that the area must have been deemed a rural area for the purpose of qualifying for a loan under this part. (See the definition of “rural area” in 7 CFR 1710.2.) If the average number of consumers per mile of line of the borrower’s total electric system exceeds 17, the borrower must include, as a

note on RUS Form 740c, Cost Estimates and Loan Budget for Electric Borrowers, submitted as part of the loan application for a loan at the 5 percent hardship rate, a breakdown of funds included in the proposed loan to furnish or improve service to consumers located in urban areas. For such borrowers only funds for those facilities serving consumers located outside an urban area are eligible for the 5 percent hardship rate.

(Approved by the Office of Management and Budget under control number 0572–1013)

§ 1714.9 Prepayment of insured loans.

This section sets out provisions for prepayment of insured electric loans at face value. Provisions for discounted prepayment of RUS loans are set out in 7 CFR part 1786.

(a) *Municipal rate loans.* Loan documents for municipal rate loans shall provide for the following:

(1) *Prepayment on a rollover maturity date.* All, or a portion of, the outstanding balance on any advance from a municipal rate loan may be prepaid on any rollover maturity date pursuant to §1714.6(a)(4).

(2) *Prepayment on a date other than a rollover maturity date.* A borrower may elect at the time of loan approval to include a prepayment option (call provision) that will allow the borrower to prepay all, or a portion of, the outstanding balance on any advance on a date other than a rollover maturity date. Interest rates on advances from loans with a prepayment provision will be increased as set forth in §1714.4(a).

(b) *Hardship rate loans.* Loan documents for hardship loans shall provide that the loan may be prepaid at face value at any time without penalty.

§§ 1714.10–1714.49 [Reserved]

Subpart B—Terms of Insured Loans

SOURCE: 60 FR 3734, Jan. 19, 1995, unless otherwise noted.

§§ 1714.50–1714.54 [Reserved]

§ 1714.55 Advance of funds from insured loans.

The borrower shall request advances of funds as needed. Advances are subject to RUS approval and must be requested in writing on RUS Form 595 or an RUS approved equivalent. Funds will not be advanced until the Administrator has received satisfactory evidence that the borrower has met all applicable conditions precedent to the advance of funds, including evidence that the supplemental financing required under 7 CFR part 1710 and any concurrent loan guaranteed by RUS are available to the borrower under terms and conditions satisfactory to RUS.

§ 1714.56 Fund advance period.

(a) For loans approved on or after February 21, 1995, the fund advance period begins on the date of the loan note and is one year longer than the loan period, but not less than 4 years. For example, the fund advance period for a loan with a 2-year loan period terminates automatically 4 years after the date of the loan note; a loan with a 4-year loan period terminates automatically 5 years after the date of the loan note. The Administrator may extend the fund advance period on any loan if the borrower meets the requirements of paragraph (c) of this section. As defined in 7 CFR 1710.2, the loan period begins on the date shown on page 1 of RUS Form 740c submitted with the loan application.

(b) For loans approved on or after June 1, 1984, and before February 21, 1995, the fund advance period begins on the date of the loan contract, or the most recent amendment thereto, and terminates automatically 4 years from the date of the loan contract, or the most recent amendment thereto, except as provided in paragraph (c) of this section.

(c) The Administrator may agree to an extension of the fund advance period for loans approved on or after June 1, 1984, if the borrower demonstrates to the satisfaction of the Administrator that the loan funds continue to be needed for approved loan purposes (i.e., facilities included in an RUS approved construction work plan). Policies for

extension of the fund advance period following certain mergers, consolidations, and transfers of systems substantially in their entirety are set forth in 7 CFR 1717.156.

(1) To apply for an extension, the borrower must send to RUS, at least 120 days before the automatic termination date, the following:

(i) A certified copy of a board resolution requesting an extension of the Government's obligation to advance loan funds;

(ii) Evidence that the unadvanced loan funds continue to be needed for approved loan purposes; and

(iii) Notice of the estimated date for completion of construction.

(2) In the case of financial hardship, as determined by the Administrator, RUS may agree to an extension of the fund advance period even though the borrower has failed to meet the 120-day requirement of paragraph (c)(1) of this section.

(3) If the Administrator approves a request for an extension, RUS will notify the borrower in writing of the extension and the terms and conditions thereof. An extension will be effective only if it is obtained in writing prior to the automatic termination date.

(d) Advances of funds from loans approved before June 1, 1984, are generally made during the first 6 years of the note.

(e) RUS will rescind the balance of any loan funds not advanced to a borrower as of the final date approved for advancing funds.

[60 FR 3734, Jan. 19, 1995, as amended at 61 FR 66871, Dec. 19, 1996]

§ 1714.57 Sequence of advances.

(a) Except as set forth in paragraph (b) of this section, concurrent loan funds will be advanced in the following order:

(1) 50 percent of the RUS insured loan funds;

(2) 100 percent of the supplemental loan funds;

(3) The remaining amount of the RUS insured loan funds.

(b) At the borrower's request and with RUS approval, all or part of the supplemental loan funds may be advanced before funds in paragraph (a)(1) of this section.

§ 1714.58 Amortization of principal.

(a) For insured loans approved on or after February 21, 1995:

(1) Amortization of funds advanced during the first 2 years after the date of the note shall begin no later than 2 years from the date of the note. Except as set forth in paragraph (a)(2) of this section, amortization of funds advanced 2 years or more after the date of the note shall begin with the scheduled loan payment billed in the month following the month of the advance.

(2) For advances made 2 years or more after the date of the note, the Administrator may authorize deferral of amortization of principal for a period of up to 2 years from the date of the advance if the Administrator determines that failure to authorize such deferral would adversely affect either the Government's financial interest or the achievement of the purposes of the RE Act.

(b) For insured loans approved before February 21, 1995, amortization of principal shall begin 2 years after the date of the note for advances made during the first and second years of the loan, and 4 years after the date of the note for advances made during the third and fourth years.

§ 1714.59 Rescission of loans.

(a) A borrower may request rescission of a loan with respect to any funds unadvanced by submitting a certified copy of a resolution by the borrower's board of directors.

(b) RUS may rescind loans pursuant to § 1714.56.

(c) Borrowers who prepay RUS loans at a discounted present value pursuant to 7 CFR part 1786, subpart F, are required to rescind the unadvanced balance of all outstanding electric notes pursuant to 7 CFR 1786.158(j).

PART 1717—POST-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

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