



United States Department of Agriculture
Rural Development

Rural Business-Cooperative Service • Rural Housing Service • Rural Utilities Service
Washington, DC 20250

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SUBJECT: Waiver of Provisions of RUS Loan Documents
Current Ratio Limitation on Distributions

TO: All Electric Borrowers

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Rural Utilities Service (RUS) electric loan documents typically limit the ability of the borrower to make any distributions, including paying dividends, retiring patronage capital, or making any other cash distribution. ¹ Standard RUS loan documents and implementing regulations impose, among other matters, a current ratio test, i.e., the borrower may not make any distributions if, after giving effect to the distribution, the borrower's current and accrued assets would be less than its current and accrued liabilities. ²

Increasingly borrowers have requested that RUS waive the current ratio test as it applies to limitations and distributions. It has been RUS practice to grant such waivers on a case-by-case basis recognizing that the current ratio is a one time "snap shot" and bears limited significance to the overall financial stability of an organization, specifically to concerns regarding distributions. Moreover, RUS recognizes that, as the electric utility industry evolves into a more competitive marketplace, borrowers need flexibility in managing their cash flow. Consequently, RUS has determined that the current ratio test applicable to distributions by borrowers may be waived on a program-wide basis without adversely affecting RUS interests.

Pursuant to its authority to waive compliance with provisions of RUS loan documents, ³ RUS hereby waives compliance with the current ratio test applicable to distributions by electric borrowers. This waiver applies to all electric borrowers, including power supply borrowers.

All other limitations on distributions set forth in RUS loan documents shall remain in full force and effect. Typically, these limitations require that after giving effect to a proposed cash distribution, the borrowers' s equity be greater than or equal to 30 percent, and the borrower be current on all payments due on all secured notes and not otherwise be in default under its loan documents.

Borrowers are reminded that this waiver applies solely to the rights of RUS under its loan documents with the borrower and is not intended to and does not effect the rights of any third parties, including other lenders or co-mortgagees that may have imposed limitations on distributions by the borrower.

RUS reserves the right to withdraw this waiver in whole and in part and on a case-by-case basis by written notice to borrowers signed by or on behalf of RUS.

¹ See, e.g., Section 6.8. Limitations on Distributions, Appendix A to Subpart C to Part 1718-Model Form of Loan Contract for Electric Distribution Borrowers. 7 CFR 1718.104.

² 7 CFR 1717.617 Limitations on Distributions

³ See, e.g., Section 9.10. Complete Agreement, Appendix A to Subpart C to Part 1718-Model form of the Loan Contract for Electric Distribution Borrowers. 7 CFR 1718.104.