

requests have been approved after a special finding by RUS that the accommodation of the government's lien was in the government's financial interest. By adding steam power as an eligible purpose, the special finding would no longer be required, which should expedite the review of such applications.

Existing paragraph (a)(4) would be redesignated (a)(5) and the limit on transaction costs eligible for lien accommodation would be raised from 3.5 percent of loan proceeds to 5 percent. No other changes are proposed to paragraph (a) other than renumbering of the subparagraphs. Minor technical changes would be made to the wording in paragraph (b) to reflect the addition of the four community infrastructure purposes to the purposes generically eligible for a lien accommodation, and to broaden the scope of purposes eligible in connection with cogeneration projects. Also, paragraph (b)(2) would be removed since it would be redundant with the proposed expanded scope of § 1717.850(m).

#### *Section 1717.854 Advance Approval.*

Minor technical amendments are proposed to paragraphs (a) and (b) to reflect the proposed addition of the four community infrastructure purposes to the purposes generically eligible for a lien accommodation, and thus eligible for advance approval.

Changes are proposed to paragraph (c) to conform the financial criteria for eligibility for advance approval of a lien accommodation to those contained in section 2.01 of the new mortgage. Thus the existing two-part interest coverage and equity tests in paragraph (c) would be replaced with the interest coverage, equity, and net utility plant tests contained in section 2.01 of the new mortgage. With this change borrowers under the "old" existing mortgage would be subject to the same basic financial tests in qualifying for advance approval of a lien accommodation as borrowers under section 2.01 of the new mortgage in issuing additional secured debt without mortgage approval. The latter borrowers would not require a lien accommodation, and thus 1717.854 would no longer be relevant for them.

The proposed new tests in paragraph (c) are a Times Interest Earned Ratio (TIER) of at least 1.5 and Debt Service Coverage (DSC) of at least 1.25 in each of the past two years, equity of at least 27 percent after debt issuance, and a ratio of net utility plant to long-term debt of at least 1.0 after debt issuance. In addition, the existing limitation of variable rate debt to 15 percent of all outstanding debt would be eliminated

by removing paragraph (c)(7). This limitation on variable rate debt would also be eliminated from advance approvals of lien accommodations for refinancing loans by removing paragraph (a)(5) from 1717.857.

A few minor technical changes are proposed to § 1717.855 and 1717.856, primarily to conform them with the proposed addition of the four community infrastructure purposes to the purposes generically eligible for a lien accommodation, and to eliminate the certification from borrowers that they will comply with RUS construction standards and CWP requirements.

Finally, no changes are proposed to 7 CFR part 1717, Subpart S, regarding lien accommodations for concurrent supplemental loans. Such loans must continue to meet the same requirements as insured loans made by RUS.

#### **7 CFR Part 1710—General and Pre-Loan Policies and Procedures Common to Insured and Guaranteed Electric Loans**

*Section 1710.103 Area coverage.* A technical change is proposed to delete the statement which could be interpreted that the loan contract must include the exact language of § 1710.103 with respect to area coverage requirements. That never was the intent. The proposed technical change is consistent with the general approach that the loan contract should provide the general authority for a requirement or control, while RUS regulations should provide the specific details and often narrow the focus of the general authority provided in the loan contract.

*Section 1710.114 TIER, DSC, OTIER and ODSC requirements.* It is proposed that the rate covenant be shifted from the mortgage to the loan contract, and that an Operating Times Interest Earned Ratio (OTIER) and an Operating Debt Service Coverage (ODSC), both set at a minimum of 1.1, be added to the existing TIER and DSC requirements for distribution borrowers. The reasons for these changes are discussed in the background section of the final rule on the distribution mortgage published elsewhere in this issue of the **Federal Register**.

*Long-range engineering plans and construction work plans.* Under section 1710.250, all borrowers would continue to be required to maintain up-to-date long-range engineering plans and construction work plans, but the plans would not have to be approved by RUS unless the borrower intends to seek RUS financing. Applications for RUS financing would continue to have to be supported by an RUS-approved long-range engineering plan and CWP. RUS

approval of these plans would be with respect to only those facilities to be financed by RUS, and as to whether the plans provide an acceptable basis, from a planning and engineering standpoint, for approving the RUS financing.

A new paragraph (k) would be added to this section authorizing RUS to waive certain requirements with respect to long-range engineering plans and construction work plans if RUS determines that the requirements impose a substantial burden on the borrower and that waiving the requirements will not significantly affect the accomplishment of the objectives of the regulation. For example, RUS could waive certain requirements relating to load growth if the borrower's growth is stagnant or declining.

#### **List of Subjects**

##### *7 CFR Part 1710*

Electric power, Electric utilities, Loan programs—energy, Rural areas.

##### *7 CFR Part 1717*

Administrative practice and procedure, Electric power, Electric utilities, Intergovernmental relations, Investments, Lien accommodation, Lien subordination, Loan programs—energy, Operational controls, Reporting and recordkeeping requirements, Rural areas.

##### *7 CFR Part 1718*

Administrative practice and procedure, Electric power, Electric utilities, Loan programs—energy, Loan security documents, Reporting and recordkeeping requirements, Rural areas.

For the reasons explained in the preamble and under the authority of 7 U.S.C. 901 *et seq.*, RUS proposes to amend 7 CFR Chapter XVII as follows:

#### **PART 1710—GENERAL AND PRE-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS**

1. The authority citation for part 1710 is revised to read as follows:

**Authority:** 7 U.S.C. 901–950b; Public Law 99–591, 100 Stat. 3341–16; Public Law 103–354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

2. Section 1710.2 is amended in paragraph (a) by adding the following definitions in alphabetical order to read as follows:

##### **§ 1710.2 Definitions and rules of construction.**

(a) *Definitions.* \* \* \*

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