

(e) RUS makes loans only if the borrower's entire system, including the facilities to be constructed with the proceeds of the loan, is economically feasible, as determined by RUS. In addition, RUS considers a system to be feasible only if the system, in addition to being feasible in all other respects, is year 2000 compliant or if the borrower provides RUS with a certification, satisfactory to RUS, that the system will be year 2000 compliant at a reasonable time before December 31, 1999. *Year 2000 compliant* means that product performance and function are not affected by dates before, during, and after the year 2000.

(f) For purposes of determining compliance with TIER requirements, unless a borrower whose existing mortgage contains TIER maintenance requirements notifies RUS in writing differently, RUS will apply the requirements described in paragraph (g) of this section to the borrower regardless of the provisions of the borrower's existing mortgage.

(g) For Loans approved after December 22, 2008, the borrower shall be required to maintain a TIER, at the end of the Forecast Period, at least equal to the projected TIER determined by the feasibility study prepared in connection with the loan, which shall be at least 1.0 and not greater than 1.5.

(h) Nothing in this section shall affect any rights of supplemental lenders under the RUS mortgage, or other creditors of the borrower, to limit a borrower's TIER requirement to a level above that established in paragraph (g) of this section.

(i) A borrower will not be required to raise its TIER as a condition for receiving a loan. Additional financial, investment, and managerial controls appear in the loan contract and mortgage required by RUS.

[54 FR 13351, Apr. 3, 1989. Redesignated at 55 FR 39395, Sept. 27, 1990, as amended at 56 FR 26597, June 10, 1991; 58 FR 66254, Dec. 20, 1993; 62 FR 46870, Sept. 5, 1997; 63 FR 45678, Aug. 27, 1998; 73 FR 65726, Nov. 5, 2008]

§§ 1735.23–1735.29 [Reserved]

Subpart C—Types of Loans

§ 1735.30 Hardship loans.

(a) RUS makes hardship loans under section 305(d)(1) of the RE Act. These loans bear interest at a rate of 5 percent per year. To qualify for a hardship loan on or after November 1, 1993, a borrower must meet each of the following requirements:

(1) The average number of proposed subscribers per mile of line in the service area of the borrower is not more than 4;

(2) The borrower has a projected TIER (including the proposed loan or loans) of at least 1.0, but not greater than 3.0, as determined by the feasibility study prepared in connection with the loan, see 7 CFR part 1737, subpart H; and

(3) The Administrator has approved and the borrower is participating in a telecommunications modernization plan for the state, see 7 CFR part 1751, subpart B.

(b)(1) Hardship loan funds shall not be used to finance facilities located in any exchange of the borrower that has:

(i) More than 1,000 existing subscribers; and

(ii) An average number of proposed subscribers per mile of line greater than 17.

(2) Those facilities may, however, be financed with concurrent RUS cost-of-money and RTB loans or a guaranteed loan if the borrower is eligible for such financing.

(c) The Administrator may waive the TIER requirement in paragraph (a)(2) of this section in any case in which the Administrator determines, and sets forth the reasons therefor in writing, that the requirement would prevent emergency restoration of the telephone system of the borrower or result in severe hardship to the borrower.

(d) In order to fairly and equitably approve hardship loans to ensure that borrowers most in need receive hardship financing first, RUS will prioritize for approval all applications qualifying for hardship loans. The criteria in this paragraph will be used by the Administrator to rank, from high to low, applications that have been determined to