

2010 - SUPPORTING STATEMENT

0572-0089

RUS Form 444, "Wholesale Power Contract"

A. Justification

1. Explain the circumstances that make the collection of information necessary.

The Rural Electrification Act of 1936 (RE Act) as amended (7 U.S.C. 901 et seq.), authorizes the Rural Utilities Service (RUS) to make and guarantee loans that will enable rural consumers to obtain electric power. In response to the RE Act, rural consumers formed non-profit electric distribution cooperatives. Groups of these distribution cooperatives then banded together to form generation and transmission cooperatives (G&T's) that generate or purchase power and transmit the power to the distribution systems.

For a distribution system, a lien on the borrower's assets generally represents adequate security. However, since most G&T revenues flow from its distribution members, RUS requires as a condition of a loan or loan guarantee to a G&T that its distribution members enter into a long-term requirements wholesale power contract to purchase their power from the G&T at rates that cover all the G&T's expenses, including debt service and margins.

Section 4 of the RE Act (7 U.S.C. 904) authorizes the Administrator of RUS to establish terms and conditions of loans to determine that the security for the loan is reasonably adequate and that the loan will be repaid within the time agreed.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the Agency has made of the information received from the current collection.

All RUS G&T borrowers will enter into a Wholesale Power Contract with their distribution members by using RUS Form 444, as adapted to meet the needs of the borrower. In turn, RUS will approve the executed Wholesale Power Contract. As a result of Shoshone case law, the Agency is required to use Amendment 1 to the Wholesale Power Contract which was developed for the protection of the Federal government's security. Amendment 1 does not require additional information collection or reporting requirements from the borrower. When RUS determines that it is acceptable, the information submitted will be used by the Agency to improve the credit quality and credit worthiness of loans and loan guarantees to G&T borrowers to fulfill the purposes of the RE Act.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection.

RUS is committed to meeting the requirements of the E-government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The Agency encourages borrowers to submit an electronic draft for review and comment. A hard copy of the Form 444, however, is required to be submitted with signatures for final approval.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

There is no duplication as the required information is specific to each G&T borrower and distribution cooperative member.

5. If the collection of information impacts small businesses or other small entities (item 5 of OMB Form 83-1), describe any methods used to minimize burden.

The collection of information does not impact small businesses or other small entities.

6. Describe the consequences to Federal program or policy activities if the collection is not conducted or conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Since the collection of information occurs at the time of a request by a G&T borrower for a loan or a loan guarantee from RUS, the collection could not be performed less frequently or not at all without damaging loan security.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

a. Requiring respondents to report information more than quarterly. There are no requirements to report more than quarterly.

- b. Requiring written responses in less than 30 days. There are no requirements to respond in less than 30 days.
- c. Requiring more than an original and two copies. RUS requires three originals of the Wholesale Power Contract be sent in for RUS approval. After RUS approval, one original is kept in our files and two originals with RUS approval cover letters will be sent back for the G&T and distribution member files.
- d. Requiring respondents to retain records for more than 3 years. There are no such requirements.
- e. That is not designed to produce valid and reliable results that can be generalized to the universe of study. This collection does not involve a survey.
- f. Requiring use of statistical sampling which has not been reviewed and approved by OMB. There is no requirement for sampling.
- g. Requiring a pledge of confidentiality. There is no such requirement.
- h. Requiring submission of proprietary trade secrets. There is no such requirement.

8. If applicable, identify the date and page number of publication in the Federal Register of the agency's notice soliciting comments on the information collection. Summarize public comments received and describe actions taken by the agency in response to these comments. Describe efforts to consult with persons outside the Agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, reporting format (if any), and on data elements to be recorded, disclosed, or reported.

As required by 5 CFR 1320.8(d), a Notice to request comments was published in the Federal Register on 11/30/2009, at 74 FR 62558. No comments were received.

RUS maintains close contact with borrowers through general field representatives (GFRs) and headquarters staff. GFRs have direct personal contact with borrowers in connection with their responsibilities in fulfillment of RUS requirements, including filling out the various forms. Borrowers may consult RUS' GFRs, field accountants, and headquarters' staff regarding comments or suggestions on procedures, forms, regulations, etc. The general public is invited to comment during the *Federal Register* process.

RUS works closely with lending institutions such as the National Rural Utilities Cooperative Finance Corporation and CoBank, a nationwide network of lending institutions and part of the Farm Credit System, which provide supplemental loan funds to borrowers. The Agency also works closely with national and statewide associations representing electric, telecommunications, and water and waste borrowers such as: National Rural Electric Cooperative Association; National Rural Telecom Association;

National Telephone Cooperative Association; United States Telephone Association; Western Rural Area Telephone Association; Organization for the Preservation and

Advancement of Small Telephone Companies; National Rural Water Association; National Association of Development Organizations; Rural Community Assistance Program; and, American Public Power Association, among others. RUS also works with various Federal agencies including the Federal Communications Commission, U. S. Environmental Protection Agency, Department of Justice, as well as State utility regulatory agencies.

Suggestions and comments are always considered by the Agency, and RUS remains committed to pursuing further reductions in both the burdens placed upon our borrowers/customers and the total volume of regulations imposed.

9. Explain any decision to provide any payment or gift to respondents, other than re-enumeration of contractors or grantees.

There has been no decision to provide payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or Agency policy.

No assurance of confidentiality has been provided to respondents.

11. Provide additional justification for any question of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private.

There are no questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information.

Typically, 7 power supply borrowers and 95 members may enter into amendments to Wholesale Power Contracts annually, which accounts for 612 hours of total burden. The estimated hours to prepare and submit the material in connection with the Wholesale Power Contract requirement of the regulation is estimated as follows:

Professional time - 102 responses X 4 hours = 408 hours

Clerical time - 102 responses X 2 hours = 204 hours

The cost associated with this collection is \$19,341 and is attributed as follows:

Professional time - 408 hours X \$39 per hour = \$ 15,912
Clerical time - 204 hours X \$16.81.20 per hour = \$3429

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information.

(a) Total capital and start-up cost component (annualized over its expected useful life); and

There are no capital or start-up costs associated with this collection.

(b) Total operation and maintenance and purchase of services component.

There are no operation or maintenance costs associated with this collection.

14. Provide estimates of annualized cost to the Federal Government.

The cost to the Government associated with the review of the information submitted in connection with the Wholesale Power Contract is estimated to be \$12,072 and is attributed as follows:

Professional time - 102 responses X 2 hours @ \$52.61 = \$10,732
Clerical time - 102 responses X .5 hour @ \$26.29 = \$1,340

The professional time of \$52.61 per hours is attributed to a GS 13 step 8, loan analyst, and the clerical time of \$26.29 per hours is attributed to a GS 7 step 10.

15. Explain the reasons for any program changes or adjustments reported in items 13 or 14 of the OMB Form 83-I.

This is a revision of a currently approved package. Since the last submission there is an increase in the number of respondents resulting in an adjustment increase of 414 burden hours. The increase is due to an adjustment in the number of respondents.

16. For collection of information whose results will be published, outline plans for tabulation and publication.

There are no plans for publication of information.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The Agency requests not to display the expiration date on the Form due to the number of forms that will be printed and the variety of borrowers that will be using the Form.

It is possible that borrowers would not have the most current copy of the Form with the most recent expiration date.

18. Explain each exception to the certification statement identified in item 19 on OMB 83-1.

There are no exceptions to the certification statement.

B. Collection of Information Employing Statistical Methods.

This collection does not employ statistical methods.