

June 2009

SUPPORTING STATEMENT

(0572-0031)

Operating Reports for Telecommunications and Broadband Borrowers

This is a revision of a currently approved information collection package.

A. Justification

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

The Rural Utilities Service (RUS), an agency delivering the U.S. Department of Agriculture Rural Development Utilities Programs, hereinafter referred to as Rural Development or the Agency, is a credit agency of the USDA. It makes loans and loan guarantees to finance electric, broadband, telecommunications, and water and waste facilities in rural areas. In addition to providing loans and loan guarantees, one of Rural Development's main objectives is to safeguard loan security until the loan is repaid. Section 201 of the Rural Electrification Act of 1936, as amended (RE Act) (7 U.S.C. 901 *et seq.*) authorizes that "the Secretary is authorized and empowered to make loans to persons now providing or who may hereafter provide telephone service in rural areas... for the purposes of financing the improvement, expansion, construction, acquisition, and operation of telephone lines, facilities or systems to furnish and improve telephone service in rural areas." Similarly, Section 601(c)(1) states that "the Secretary shall make or guarantee loans to eligible entities...to provide funds for the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in eligible rural communities."

Section 201 also states that "(l) loans under this section shall not be made unless the Secretary finds and certifies that in his judgment the security therefore is reasonably adequate and such loan will be repaid within the time agreed..." Section 2(b) of the RE Act provides that "the Secretary may make, or cause to be made, studies, investigations, and reports regarding matters, including financial, technological, and regulatory matters, affecting the condition and progress of electric, telecommunications, and economic development ..."

Both the Operating Report for Telecommunications Borrowers and the Operating Report for Broadband Borrowers are required by the loan contract and provide Rural Development with vital financial information needed to ensure the maintenance of the security for the Government's loans and service data which enable Rural Development to ensure the provision of quality telecommunications and broadband service as mandated by the RE Act of 1936 [7 CFR § 1738.22(f), § 1744.209(g), and *Appendix to Subpart C of Part 1770, 106.B.*]. In addition, for telecommunications loans, the Operating Report is the basis for developing an applicant's current financial condition, upon which financial and service projections are based when determining the feasibility of a loan application [7 CFR § 1737.70(g)].

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.

Operating Report: Rural Development Telecommunications and Broadband program borrowers are required to file an Operating Report with the agency. The primary purpose of the Operating Report is to provide the Agency with financial information to ensure loan security consistent with due diligence. Secondary to this purpose is the use of the data for a variety of financial and service based studies performed throughout the year. These functions are essential to protect loan security and to achieve the objectives of the RE Act. Rural Development staff must evaluate all factors related to the security of loans and the maintenance of adequate telephone service by borrowers on a continuing basis. In the processing of telecommunications loan applications, the Operating Report is used extensively by the Agency in preparing the loan feasibility study to determine if the loan can be repaid.

The Operating Report is to be submitted to Rural Development not less than quarterly for broadband borrowers and not less than annually for telecommunications borrowers and serves the following purposes:

Loan Security: To carry out their responsibilities, Rural Development staff evaluates all factors related to the security of loans and the maintenance of adequate telecommunications or broadband service by Rural Development borrowers on a continuing basis. The Operating Report allows the Agency to identify serious operating problems and take preventative or early corrective action. Using the Operating Report, deteriorating financial conditions can be detected at an early stage thereby avoiding dangers of recognition at an advanced stage when only difficult, costly solution would be available. Rural Development must have the means of maintaining the capability to ascertain the security for the Government's loans which frequently constitute the major portion of the capitalization of these telecommunications and broadband companies.

Mortgage Compliance: The Government's loan documents contain provisions to assure achievement of the objectives of the RE Act and continued security for the Government's investments. One of the most effective means Rural Development has to police these provisions is analysis of the Operating Report which provides data in such important areas as: current levels of debt and equity, investments in telecommunications or broadband plant, working capital levels, and the extent of coverage for interest and principal payments. The Operating Report also provides information regarding the extent to which service is being provided on an area coverage basis, a legal provision of the RE Act for telecommunications borrowers (Sec. 201) or on a community basis, a key regulatory provision for broadband borrowers [7 CFR § 1738.19(h)]. The subscriber data provided in the Operating Report allows the Agency the ability to track a borrower's progress in achieving subscriber projections which support the Government's loans. In addition, the Operating Report provides information on activities prohibited by the mortgage, such as excessive distributions of capital, including dividend distributions and

investments in affiliated companies, which might adversely affect loan security, quality of service, or reasonableness of rates.

Loan Processing: When Rural Development staff prepares a feasibility study for a telecommunications loan application, the Operating Report is used to derive a borrower's recent financial and service operating experience. With the broad range of interest rates applicable to telecommunications loans and loan guarantees, fairness and the need for accurate measurements of a borrower's operating characteristics demand that current and valid data be utilized in determining the eligibility of a borrower for each type of loan or loan guarantee and the applicable interest rate for that loan. The Operating Report is the most convenient method of deriving this information for both the borrower and the Government.

Broadband loan applicants are required to provide their own financial forecast with each loan application. Nonetheless, the Operating Report will provide an invaluable tool for validating historical financial information included in the borrower's projections for any existing broadband borrower that applies for an additional broadband loan or loan guarantee.

Field Staff Utilization: Rural Development relies heavily on the evaluations of its borrowers by its General Field Representatives (GFRs). GFRs monitor the progress of telecommunications and broadband systems within their territories using the financial and service data reported by the borrowers on the Operating Report as a basis for that review. With the added advantage of on-site visits, GFRs using the Operating Report can detect difficulties before they become large problems and suggest remedial action for problems related to loan security, management, and quality of service. Without the Operating Report, the GFRs have a very limited basis for determining the trend of the borrower's operations and for taking action in the interest of rural ratepayers, the Government, and the borrower. Without the use of the Operating Report as a tool, there would be a significant loss of effectiveness of the GFRs.

Telecommunications Borrowers file their Operating Report using the USDA Rural Development Utilities Program Data Collection System (DCS). Broadband Borrowers file their Operating Report Using the USDA Rural Development Utilities Programs Broadband Collection and Analysis System (BCAS). Both DCS and BCAS are web-based systems which allow for submission of data electronically. Both systems use USDA's eAuthentication to provide for electronic signature of the submitted data.

Form 674 - "Certificate of Authority to Submit or Grant Access to Data": The Form 674 provides approval from the Board of Directors of Telecommunications, Broadband and Electric Borrowers for individuals named on the form to conduct business on behalf of the entity. The use of Form 674 will ensure that one person identified by the Board of the entity is authorized to certify information that is entered into either the DCS or the BCAS. The Form 674 will also ensure that one person identified by the Board is authorized to act as a security administrator for the entity. The security administrator will be able to assign other persons, associated with the entity, user and reader roles in the

DCS or the BCAS systems. This form will also be used by Electric program borrowers using the DCS System to file Form 7 and 12 data (as cleared under 0572-0032). This form will be submitted with an accompanying board resolution. It is expected that the agency will only receive forms from new borrowers or from borrowers that need to revise their Forms already on file.

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.

Rural Development 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.

Both Telecommunications and Broadband Borrowers submit their Operating Reports through web-based systems and use USDA's eAuthentication system for electronic signature. The collection of the Broadband Operating Report is 100% electronic. The collection of the Telecommunications Operating Report is about 98% electronic, except for those entities in the Pacific Islands and Micronesia that cannot obtain an eAuthentication ID due to citizenship requirements.

The individual eAuth IDs will be associated with borrower companies in two ways. Each borrower will complete and submit to Rural Development a Form 674. This form will designate the individual who will be able to certify and submit the Operating Report to Rural Development (the "Certifier"). It will also designate the individual who will be able to give other users access to the borrower's data either to read ("Reader") or complete ("User") the Operating Report (the "Security Administrator"). Rural Development will grant the roles of Certifier and Security Administrator to the individuals listed on the form, using the eAuth IDs listed. The Security Administrator will grant the roles of Reader and User to appropriate individuals. The Form 674 must be submitted in hard-copy.

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.

Each telecommunications borrower is required to submit an annual Operating Report to Rural Development, and each broadband borrower is required to submit a quarterly Operating Report. This information is unique to each borrower and the Agency and cannot be collected from any other source. The Agency has researched other programs provided by other agencies within Rural Development and elsewhere in the federal government and could not locate a similar loan program that provides funding primarily for rural telecommunications and broadband systems. Although the Federal Communications Commission collects and publishes some service data, it only provides

aggregate subscriber figures that do not provide the level of detail necessary to ensure that the purposes of the RE Act are being met. Due to the competitive nature of the telecommunications and broadband industries, detailed financial and service data such as Rural Development will collect through the Operating Report is not available through any other means.

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

Telecommunications carriers are required to keep their books in accordance with Federal Communications Commission's (FCC) Uniform System of Accounts (USoA). The information required to complete the Operating Report is readily available to the borrowers from the records they are required to maintain by the FCC. The burden placed on small entities is minimized because the information being collected may be taken directly from these records.

Broadband providers are not necessarily required to use the USoA unless they are also considered telecommunications carriers; nonetheless, under Generally Accepted Accounting Practice (GAAP), these providers are required to maintain financial data which is readily convertible to USoA categories. Therefore, the burden placed on broadband providers should not be much greater than that placed on other telecommunications carriers.

The Operating Report requires the least information needed in order for Rural Development to fulfill its obligation of monitoring and analyzing the financial and operating condition of its borrowers. In addition, use of the electronic format reduces the time required to prepare and submit data.

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.

Without the submission of the Operating Report, Rural Development cannot effectively monitor each borrower's operations to assure continued security for the Government's loans and borrower compliance with the provisions of its contract and mortgage. Annual submission of the report is adequate for telecommunications borrowers because of the maturity of the industry and the long experience the Agency has had with most of its borrowers. Quarterly submission is necessary for the broadband borrowers, however, because of the lack of operating experience of many of the borrowers and the rapidly changing nature of this new and dynamic business. Collecting information quarterly rather than annually reduces the risk of loss caused by the rapid decline in the financial condition of a borrower.

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.

If a broadband borrower shows significant financial weakness or violates a covenant of its mortgage or contract with the Government, monthly reporting may be required for a period of time. For telecommunications borrowers, similar weaknesses to those described above would normally increase the frequency of reporting from annually to quarterly.

- b. Requiring written responses in less than 30 days.

There is no requirement for a response in less than 30 days. However, if a “Certifier” or “Security Administrator” of an entity leaves the organization, the entity should notify Rural Development as soon as possible by filing a revised Form 674.

- c. Requiring more than an original and two copies.

There is no requirement for more than an original and two copies.

- d. Requiring respondents to retain records for more than 3 years.

Record retention requirements are in accordance with 7 CFR 1770 and normally do not exceed 3 years.

- e. That is not designed to produce valid and reliable results that can be generalized to the universe of study.

Statistical analysis could produce results that could be generalized to the universe of borrowers from the collected data, but the primary purpose of the collection is to monitor the specific performance of each borrower.

- f. Requiring use of statistical sampling which has not been reviewed and approved by OMB.

This collection does not involve statistical sampling.

- g. Requiring a pledge of confidentiality.

There is no requirement for a pledge of confidentiality.

- h. Requiring submission of proprietary trade secrets.

There is no requirement for submission of proprietary trade secrets.

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), RUS published a notice and request for comments in the Federal Register on December 5, 2008, at 73 FR 74137, which no comments were received.

Rural Development maintains close contact with borrowers through general field representatives and a headquarters staff. Suggestions are always considered by the Agency. The following applicants/borrowers representing Electric, Telecom and Broadband Programs were contacted for this information collection package:

David Lundberg, Finance Division Manager
Steel WASECA Cooperative Electric
Owatonna, MN
(507) 451-7340

Mr. Lundberg serves as a Security Administrator at Steel WASECA Cooperative Electric and does not find the process for getting access to the system as burdensome. He said that in today's climate it is understandable to have controls in process to safeguard systems and information. He finds the Rural Utilities Staff very helpful when he has questions about the process or the system.

Juanita Van Waus
Cooperative Telephone Company
704 3rd Street
Victor, IA 52347
(319) 647-3131

Lohn Weber
Cinergy Metronet, Inc.
3701 Communications Way
Evansville, IN 47715
(913) 754-3322

Mr. Weber had only positive response to the Broadband operating Report.

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

Payments or gifts are not provided to respondents.

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

The information collection involves financial information from companies involved in competitive industries, disclosure of which may cause competitive harm to submitting borrowers. Since 1999, Rural Development has not published the financial and service data of its telecommunications borrowers. The agency has also informed its borrowers that it would not routinely release their filed data. However, the Agency has reminded borrowers that the information submitted on the Operating Report is covered by the provisions of the Freedom of Information Act (“FOIA,” [5 U.S.C. 552]), so confidentiality cannot be assured. Nonetheless, in accordance with FOIA, borrowers have been assured that they will be notified of any requests for their data and given the opportunity to make their case that release of the information would cause them competitive harm, if appropriate.

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.

Hour Burden

See the attached Spreadsheet for a breakout of burden hours.

Cost to Respondents

Data collection, transcription, review and completion of the Operating Report program

Professional time @ \$ 28.66/hr X 2,806 hours = \$80,420

Total annualized cost to respondents = \$80,420

The Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification wage rates were used as the basis for the cost estimates. The hourly earnings for Professional time in a non-metropolitan area are \$28.66.

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 and/or start-up costs components associated with this collection.

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

There are no operation and maintenance and/or purchase of services component associated with this collection.

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

The cost to the Federal government is estimated as follows:

Data processing and analysis
Professional @ \$27.65 hr (GS 12, step 1, including 45% increase for total value of benefits) X 1 hour X 694 responses = \$19,189.00

Receipt and confirmation of Form 674
Professional @ \$52.50 hr (GS 14, step 3, including 45% increase for total value of benefits) X .25 hour X 120 responses = \$ 1,575.00

Establish borrower roles in system
Professional @ \$32.88 hr (GS 13, step 1, including 45% increase for total value of benefits) X 10 minutes X 120 responses = \$ 654.97

Printing letter to respondents regarding completion and submission of the Operating Report:

Copying @ \$.07 page X 694 respondents: \$ 48.58

Cost to mail letter to respondents:

Postage @ .44 letter x 694 respondents \$ 305.36

Total cost to the Federal Government = \$21,772.91

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 information collection; there is a net decrease of 837 hours. There are 40 fewer respondents for the Telecommunications Operating Report and 24 fewer respondents for the Broadband Operating Report. There are 1,170 fewer respondents for the Form 674, due to most borrowers already having a form on file with the agency.

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

The results of this collection of information are not intended for publication. Rural Development discontinued publication of the results of the telecommunications data collection in 1999 since requests for this information under the Freedom of Information Act could place borrowers at a competitive disadvantage and impair loan security. Similar concerns apply to broadband borrowers.

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.

Rural Development requests approval to not display the expiration date on the Operating Report due to the fact that this is an automated system and each time the expiration date changes a software revision would be required which would cost the Government additional funds.

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

There are no exceptions.

B. Collection of Information Employing Statistical Methods.

This information collection does not employ statistical methods.