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B-29463 December 1, 1942

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Honorable Lyle H. Boren, House of Representatives.

My dear Mr. Boren:

Further reference is made to your letter of October 8, 1942, acknowledged October 13, relative to the authority of the Rural Electrification Administration to expend money for existing utility plants that were not constructed for rural electrification purposes.

As you doubtless are aware, the jurisdiction of this office is such that decisions are not required or authorized by law to be rendered at the request of other than a disbursing officer, a certifying officer, or the head of an executive department of other Government establishment except in connection with the review of specific claims which have been settled by this office. However, with a view to giving you so much information relative to the matter as reasonable could be obtained at this time, I have examined the terms of the Rural Electrification Act of 1936, 49 Stat. 1363 (7 U.S.C. 901, et seq.), and obtained a report from the Secretary of Agriculture under whose supervision the Rural Electrification Administration now functions, concerning the matter.

The primary purpose of the Rural Electrification Act of 1936 is, as stated is section 2 thereof, 49 Stat. 1364 (7 U.S.C. Sec 902), the making of loans "for rural electrification" and section 4 of the act, 49 Stat. 1365 (7 U.S.C. Sec 904), provides:

"The Administrator is authorized and empowered *** to make loans to persons, corporations, States, Territories, and subdivisions and agencies thereof, municipalities, peoples utility districts and cooperative, nonprofit, or limited-dividend associations organized under the laws of any State or Territory of the United States, for the purpose of financing the construction and operation of generating plants, electric transmission and distribution lines or systems for the furnishing of electric energy to persons in rural areas who are not receiving central station service ***."

It is, of course, a cardinal principle of statutory construction that the terms of a statute should be so construed as to effectuate the legislative intent. The specific power embodied in the above-quoted statutory provision is the power "to make loans" and, although the purposes for which a loan properly may be made necessarily are limited by the language appearing in the act, there would appear to be no doubt that the Congress contemplated that the extent of the Administrator's authority in this respect and any question as to whether the

object of a loan in a particular case comes within his statutory power to make loans for the "construction and operation of generating plants, electric transmission and distribution lines or systems" would be viewed in the light of the controlling intent of the Congress to provide electric service to persons in rural areas not receiving central station service.

Obviously, where an application for a loan under the provisions of section 4 of the Rural Electrification Act of 1936, supra, is made on the basis that the entire amount payable under the requested loan contract is to be used exclusively for the purchase of existing electric facilities and the only persons to be benefited or affected are persons already served by such facilities, the Administrator would not be justified in authorizing the loan for the reason that there would be wholly lacking the essential statutory purpose of providing service to unserved persons in rural areas. But a different situation is presented where the Administrator desires to finance the construction of an electric transmission and distribution system designed to furnish electric energy to unserved persons in rural areas and which requires, for its effective operation, the erection of certain facilities and the acquisition of other facilities already providing service to persons in such areas; and since the acquisition of the existing facilities and the incorporation thereof into the larger, integrated system in such a case would merely constitute the incidental means by which the essential statutory purpose of providing electricity to unserved persons in rural areas would be accomplished, there would appear to be a substantial basis for the inclusion in the loan authorized by the Administrator of an amount to cover the acquisition of such facilities.

In this connection, it may be stated that the Secretary of Agriculture reports that in each instance where the Administrator has approved a loan in which there was included an amount for the purchase of existing electric facilities, the acquisition by a cooperative borrower has had as its purpose the extension of electric service to a large number of unserved persons in rural areas who probably would be denied the benefits of electricity unless such facilities were incorporated in the cooperative system and that, although in some instances the rural lines which were acquired by the cooperatives through the medium of such loans have necessarily included a few small towns, in all such instances the acquired system has been essentially a rural system and the acquisition has been merely incidental and contributory to the essential statutory purpose of making possible further extensions to a considerable number of unserved persons in rural areas.

I trust that the foregoing information may be of service to you.

Sincerely yours

(Signed) Lindsay C. Warren Comptroller General of the United States