

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

SUMAS COGENERATION COMPANY, L.P.

FE DOCKET NO. 90-92-NG

ORDER AMENDING LONG-TERM AUTHORIZATION TO
IMPORT NATURAL GAS FROM CANADA

DOE/FE ORDER NO. 494-D

JULY 11, 1997

I. DESCRIPTION OF REQUEST

On May 29, 1997, as supplemented July 1, 1997, Sumas Cogeneration Company, L.P. (SCCLP) filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE), under section 3 of the Natural Gas Act (NGA) ⁽¹⁾ and DOE Delegation Order Nos. 0204-111 and 0204-127, requesting that FE amend SCCLP's current authority to import natural gas into the United States from Canada. The amendment would reflect (1) a new gas purchase contract that SCCLP executed June 4, 1996, with one of its suppliers, Westcoast Gas Services, Inc. (WGSI)⁽²⁾, effective November 1, 1996; and (2) a revision to the pricing provisions of the gas purchase contract SCCLP has with another of its suppliers ENCO Gas, Ltd. (ENCO), also effective November 1, 1996.

SCCLP's primary place of business is located in Kirkland, Washington. It owns and operates a 125-megawatt cogeneration facility in Sumas, Washington. SCCLP's cogeneration facility uses natural gas purchased from various Canadian supply sources and transported from the U.S./Canada border over SCCLP's four-mile, private plant line and border crossing facilities.

FE issued SCCLP its present import authority on November 30, 1992. DOE/FE Order No. 494-B (Order 494-B)⁽³⁾ granted SCCLP authority to import up to 24,000 Mcf of gas per day and a maximum of 8 Bcf annually over a term of 20 years beginning on the date of the first delivery.⁽⁴⁾

On March 12, 1996, FE issued DOE/FE Order No. 494-C (Order 494-C)⁽⁵⁾ amending DOE/FE Order 494-B (Order 494-B) to permit SCCLP to import up to 24,900 Mcf of gas per day and up to 8.9 Bcf of gas annually.⁽⁶⁾ By letter dated August 30, 1996, SCCLP notified FE of the new gas purchase agreement with WGSI pursuant to 10 CFR § 590.407 of DOE's regulations.⁽⁷⁾ No other terms and conditions of SCCLP's import authority as set forth in Order 494-B were changed.

From March 12, 1996, to November 1, 1996, SCCLP purchased and imported gas from Canada under three contractual arrangements: (1) a gas purchase agreement with ENCO, under which a maximum daily quantity of 12,000 MMBtu⁽⁸⁾ per day is supplied; (2) a gas purchase agreement with WGSI under which a maximum daily quantity of 12,900 MMBtu per day is supplied; and (3) spot or "swing" gas purchases from WGSI under a Gas Management Contract dated January 30, 1992, when ENCO and WGSI firm supplies are unavailable. As a result of negotiations with WGSI and ENCO during the past year, SCCLP's purchase arrangements with these two suppliers have been revised.

By agreement dated June 4, 1996, SCCLP and WGSI entered into a new, one-year agreement, effective November 1, 1996 and extending through October 31, 1997, calling for a decrease in price from \$1.289 per MMBtu to \$1.196 per MMBtu, as well as a decrease in the maximum daily purchase quantity from 12,900 MMBtu to 12,100 MMBtu.⁽⁹⁾ SCCLP states that with the exception of these two revisions, the new WGSI contract's provisions are identical to the one-year agreement entered into in 1995.⁽¹⁰⁾

SCCLP and ENCO renegotiated the pricing provisions in their current gas purchase agreement to modify the contract to more closely reflect the intention of the parties at the time the contract was entered into and to further reduce SCCLP's overall gas supply costs. On March 21, 1997, SCCLP and ENCO executed a written amendment of the agreement, which reduced the contract purchase price to \$2.066 per MMBtu effective November 1, 1996. Beginning November 1, 1997, the purchase price shall escalate at a per annum rate of five percent.⁽¹¹⁾ SCCLP states there are no other revisions to the parties' gas purchase agreement.

II. FINDING

The application filed by SCCLP has been evaluated to determine if the proposed import arrangement and contract amendments meet the public interest requirement of section 3 of the NGA, as amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486). Under section 3(c), the import of natural gas from a nation with which there is in

effect a free trade agreement requiring national treatment for trade in natural gas is deemed to be consistent with the public interest and must be granted without modification or delay. The authorization sought by SCCLP to amend its present authority to import natural gas from Canada, a nation with which a free trade agreement is in effect, meets the section 3(c) criterion and, therefore, is consistent with the public interest.

ORDER

Pursuant to section 3 of the Natural Gas Act, it is ordered that:

A. Ordering Paragraph A of DOE/FE Order No. 494-B (Order 494-B), issued November 30, 1992, as amended by DOE/FE Order 494-C, issued March 12, 1996, is further amended as follows:

(1) Sumas Cogeneration Company, L.P. (SCCLP) is authorized to import from Canada up to 12,100 Mcf per day from November 1, 1996, through October 31, 1997, pursuant to the terms of a new gas supply agreement with Westcoast Gas Services, Inc., dated June 4, 1996.

(2) SCCLP is authorized to import from Canada up to 12,000 Mcf per day during a 20-year period beginning April 1, 1993, through March 31, 2013, pursuant to the terms of its gas sale and purchase agreement with ENCO Gas, Ltd. dated December 23, 1991, as amended March 21, 1997, and effective November 1, 1996.

(3) SCCLP is authorized to import interruptible supplies from WGSJ pursuant to its Gas Management Contract with WGSJ dated January 30, 1992, in the event WGSJ cannot supply all of the fuel requirements for the cogeneration plant under its firm supply agreement.

(4) The maximum volume of gas to be imported by SCCLP from Canada each year under all three of its gas supply contracts shall not exceed 8.9 Bcf.

B. All other terms and conditions contained in Order 494-B, issued November 30, 1992, shall remain in full force and effect.

Issued in Washington, D.C., on July 11, 1997.

Wayne E. Peters
Manager, Natural Gas Regulation
Office of Natural Gas & Petroleum
Import and Export Activities
Office of Fossil Energy

1. 1/ 15 U.S.C. § 717b.

2/ WGSJ's predecessor-in-interest was Canadian Hydrocarbons Marketing, Inc.

3/ 1 FE ¶ 70,717.

4/ Initial deliveries under SCCLP's gas import authority commenced April 1, 1993.

5/ Order 494-C was not published.

6/ By letter dated October 11, 1995, SCCLP notified FE, pursuant to 10 CFR § 590.407 of DOE's regulations, that it entered into a new one-year gas supply agreement with WGSJ that replaced its original 20-year gas supply agreement dated December 23, 1991. The new agreement called for imports from WGSJ to increase from 10,000 Mcf per day to

12,900 Mcf per day during the period November 1, 1995, through October 31, 1996. The import price SCCLP paid decreased from \$1.801 per MMBtu to \$1.289 per MMBtu.

7. On February 7, 1996, SCCLP filed with FE an application to amend its long-term import authorization in Order 494-B to reflect the new agreement's import volumes.

8/ One MMBtu is equal to approximately one Mcf.

9/ SCCLP expects to execute a new gas purchase agreement later this year to become effective November 1, 1997. SCCLP shall file the necessary amendment with FE to reflect any new agreement.

10/ By letter dated August 30, 1996, SCCLP notified FE of the new gas purchase agreement with WGSJ pursuant to 10 CFR § 590.407 of DOE's regulations.

11/ The 20-year agreement originally called for a price of \$1.95 per MMBtu for the first contract year, January 1, 1993, through October 31, 1993, and escalating thereafter at an annual rate of 7.5 percent. Under the original agreement, SCCLP's gas purchase price was set at \$2.60 for the year commencing November 1, 1996.