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September 25, 2017

Sent via eFile

<b>APPROVALS RELATED TO THE REORGANIZATION OF CAL-GAS INC. EXHIBIT A-3</b>
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Ms. Katie Slipp  
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**Re: Application for approvals related to the reorganization of Cal-Gas Inc. – Project No. 1598928**

Dear Ms. Slipp:

Further to British Columbia Utilities Commission Order G-143-17 establishing a regulatory timetable with respect to the above noted application, enclosed please find Commission Information Request No. 1. In accordance with the regulatory timetable, please file your responses on or before Monday, October 2, 2017.

Sincerely,

*Original signed by Ian Jarvis for:*

Patrick Wruck  
Commission Secretary

LR/dg  
Enclosure



Application for Approvals Related to the Reorganization of Cal-Gas Inc.

**INFORMATION REQUEST NO. 1 TO 2028098 Alberta Ltd.,  
Superior Plus Corporation, Superior General Partner Inc.,  
Superior Plus LP, Cal-Gas Inc. and Canwest Propane ULC**

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**1.0 Reference: Cal-Gas Reorganization  
Exhibit B-1 (Application), p. 2; Appendix B, p. 4  
Regulatory approvals**

In response to British Columbia Utilities Commission (BCUC) Information Request (IR) 1.2 in the prior Application by Gibson Energy ULC, Superior Plus LP and 2028093 Alberta Ltd. for Approval of the Sale and Acquisition Of Cal-Gas Inc. and Application by Superior Plus LP, 2028093 Alberta Ltd., Canwest Propane ULC and Cal-Gas Inc. Regarding Amalgamation and Application by Superior Plus LP and Cal-Gas Inc. for Approval of the Transfer Of Assets proceeding, the applicants submitted that “Competition Act Clearance has not yet been obtained. Consistent with Superior’s public filings, Competition Act Clearance is expected to be obtained as early as the first part of the second half of 2017.”<sup>1</sup>

1.1 Please confirm, or explain otherwise, that Competition Act Clearance is required before Superior Plus LP (SPLP) can acquire the shares of Canwest Propane ULC (Canwest ULC) from Gibson Energy ULC, as outlined on page 4 of 23 of Appendix B, Reorganization Structure Slides.

1.1.1 Please advise if Competition Act Clearance has been obtained. If not, please advise when this clearance is expected.

1.2 With respect to the statement on page 2 of the Application that the “Applicants request that the BCUC complete its review of each step requiring its approval,” please provide a list of each step that the Applicants are seeking approval of, the corresponding applicant, and the relevant section of the *Utilities Commission Act* (UCA).

1.2.1 Please provide a draft order for the requested approvals in the Application.

**2.0 Reference: Cal-Gas Reorganization  
Exhibit B-1, pp. 1–3, Appendix B  
Objectives and implications**

The Application states the following on page 1:

The Cal-Gas Reorganization is a subset of a larger internal corporate reorganization of the SPC family of companies (the **Superior Family**, and such reorganization the **Superior Family Reorganization**). The approvals sought raise no substantive issues and should be viewed as being administrative in nature. In order to meet tax and corporate planning objectives, the Cal-Gas Reorganization must be complete prior to December 31, 2017 ...

2.1 Please identify and describe the objectives of the Cal-Gas Reorganization.

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<sup>1</sup> [Application for Approval of Sale, Amalgamation and Transfer Regarding Cal-Gas Inc.- Exhibit B-2](#)

2.2 Please describe the process that has been undertaken to ensure that the Cal-Gas Reorganization does not result in any negative tax consequences in connection with the general anti-avoidance rule (section 245) of the Income Tax Act or any other sections of that Act.

2.2.1 In the event of any negative tax consequences resulting from the Cal-Gas Reorganization, please discuss the impact that this would have on Cal-Gas Inc. (Cal-Gas), if any.

3.0 **Reference: Cal-Gas Reorganization  
Exhibit B-1, p. 2; Appendix B, p. 14  
Steps in reorganization**

The Application states the following on page 2:

The steps in the Cal-Gas Reorganization will occur in chronological order as set out in the slides attached at Appendix “B” (Reorganization Structure Slides) and each step must be approved before the Cal-Gas Reorganization can be implemented from a corporate perspective. If any step is not approved, the Cal-Gas Reorganization cannot be implemented. Therefore, the Applicants request that the BCUC complete its review of each step requiring its approval and that all approvals be subject to a single order.

3.1 Are there any circumstances under which the steps in the Cal-Gas Reorganization would not take place in immediate succession? If so, please identify and explain these circumstances and any resulting impact on Cal-Gas.

3.2 Are there any circumstances under which all of the steps in the Cal-Gas Reorganization would not be implemented? If so, please identify and explain these circumstances and the impact on Cal-Gas.

3.2.1 Specifically, please discuss any circumstances under which the Cal-Gas Reorganization would not result in the Ending Structure outlined on page 14 of 23 Appendix B, Reorganization Structure Slides.

4.0 **Reference: Cal-Gas Reorganization  
Exhibit B-1, pp. 1–3, 6  
Impact of Cal-Gas Reorganization on public utilities**

The Application states the following on page 3: “The Cal-Gas Reorganization provides sufficient safeguards by maintaining Cal-Gas as a separate entity rather than mixing its assets with another operating entity.”

4.1 Please discuss any changes to the following items as a result of the Cal-Gas Reorganization:

- Measures in place to maintain the structural integrity of the public utility assets;
- The manner in which Cal-Gas will conduct its business, including the level of service provided to customers at Kicking Horse Mountain Resort and Canyon Ridge;
- Propane supply process for Kicking Horse Mountain Resort and Canyon Ridge;
- Credit ratings for Superior Plus Corp. from Moody’s and/or Standard & Poor’s;
- Ability of Cal-Gas to raise equity and debt financing;
- Existing covenants, including any violations;

- Agreement between Cal-Gas Inc. and Canyon Ridge 382938 B.C. Ltd., the agreement between Cal-Gas Inc. and Kicking Horse Mountain Resort Limited Partnership, or any other agreements related to the provision of service regulated by the BCUC;
  - The risks (business, financial or other), obligations or exposures of Cal-Gas related to its parent, affiliates or other related entities.
- 4.2 Please provide details of any risks (business, financial or other) and obligations of Cal-Gas related to its parents and affiliates immediately before the Cal-Gas Reorganization.
- 4.3 Please provide details of any risks (business, financial or other) and obligations of Cal-Gas related to its parents and affiliates that will exist after the Cal-Gas Reorganization.
- 4.3.1 Considering the risks, if any, identified in the previous IR response, please discuss any related safeguards in place to protect the Cal-Gas public utilities.

The Application states on page 6 that “SGP is well-placed to hold the shares in Cal-Gas Amalco...”

- 4.4 Please provide a description of SGP and elaborate on the reasons why it is considered “well-placed to hold the shares in Cal-Gas Amalco”.

The Application states the following on pages 2 and 3:

The steps to complete the Cal-Gas Reorganization are administrative in nature and will not result in any substantive change to the business now operated by Cal-Gas or adversely affect Public Utility performance or service to customers. In fact, the simplified corporate ownership will result in regulatory, managerial and administrative efficiencies which will benefit customers.

- 4.5 Please provide details of the specific regulatory, managerial and administrative efficiencies, and any other potential efficiencies, that will benefit Cal-Gas public utility customers as a result of the Cal-Gas Reorganization.

5.0 **Reference: Cal-Gas Reorganization  
Exhibit B-1, pp. 3–4  
Step 3**

Pages 3-4 of the Application describe Steps 3 and 4 as follows: “In Step 3, the Canwest ULC shares are transferred from SPLP to SPC in exchange for intercompany debt and in Step 4, the Canwest ULC shares are transferred from SPC to Newco 2 in exchange for additional common shares of Newco 2. The Applicants understand that approval for these steps is required under section 54(7) of the UCA.”

Section 54(8) of the UCA states:

(8) Except if the acquisition or acquisition of control does not increase the percentage of voting shares held, owned or controlled by the person or by the person and the person's associates, a person having a reviewable interest in a public utility and any associate of that person must not acquire or acquire control of any voting shares in the public utility unless the person or associate has obtained the commission's approval.

- 5.1 Do the Applicants consider that Superior Plus Corporation (SPC) has a reviewable interest in Cal-Gas prior to Step 3, pursuant to section 54(4) of the UCA? If so, please explain if Step 3 results in an increase in the *percentage* of Cal-Gas voting shares that are held, owned or controlled by SPC, pursuant to section 54(8) of the UCA.

6.0 **Reference: Cal-Gas Reorganization  
Exhibit B-1, pp. 4, 9–10; Appendix B, p. 7  
Step 5: Amalgamation**

On page 4 of the Application under “Step 5: Amalgamation Approval” it states that In Step 5 of the Cal-Gas Reorganization, a newly-incorporated subsidiary of SPC (Newco 2), Canwest ULC and Cal-Gas will amalgamate, with the amalgamated entity continuing to operate as Cal-Gas Inc.

Page 9 of the Application states:

the Amalgamation will be beneficial in the public interest, including the interests of the customers of the Public Utilities, because the corporate governance and regulatory compliance will be more efficient, the related costs will be reduced, the management structure of the Superior Family will be simplified, and corporate transparency will be increased. This will result in more efficient operations and better service for the customers of the Superior Family, including customers of the Public Utilities.

Page 7 of 23 of Appendix B, the Reorganization Slides, states that Newco 2 has already been incorporated by SGP and has “nominal capital.”

- 6.1 Please elaborate on and quantify the public interest benefit(s) identified on page 9 of the Application resulting from the Amalgamation.
  - 6.1.1 Please discuss how the public interest benefit(s) are incremental to the benefits already in place following the sale of a reviewable interest in Cal-Gas from Gibson Energy ULC to SPLP, as approved by Order G-91-17.
- 6.2 Please confirm if Newco 2 (2028093 Alberta Ltd.) is a shell company or holding company without any significant assets, liabilities or operations. If not, please explain otherwise.
  - 6.2.1 Please explain what is meant by “nominal capital” on page 7 of 23 of the Reorganization Slides in relation to Newco2.
- 6.3 Please confirm if Canwest ULC is a shell company or holding company without any significant assets, liabilities or operations. If not, please explain otherwise.

Page 4 of the Application states that “[o]n Amalgamation, SPC will acquire the shares in Cal-Gas Amalco and acquire a reviewable interest in a public utility. Approval under section 54(7) is therefore also required as part of the Amalgamation.”

- 6.4 Do the Applicants consider that SPC has a reviewable interest in Cal-Gas prior the acquisition of the shares in Cal-Gas Amalco, pursuant to section 54(4) of the UCA? If so, please explain if the acquisition results in an increase in the *percentage* of Cal-Gas voting shares that are held, owned or controlled by SPC, pursuant to section 57(8) of the UCA.

Page 4 of the Application states that: “In addition to the Amalgamation, Step 5 also contemplates Cal-Gas Amalco subsequently issuing common shares to SPC, which will result in an increase to the voting shares owned by SPC. Therefore, approval under section 54(5)(d) of the UCA is required.”

Section 54(5)(d) of the UCA states: “increase the percentage of voting shares owned by a person who has a reviewable interest.”

Section 50(2) of the UCA states: “Except in the case of a security evidencing indebtedness payable less than one year from its date, a public utility must not issue a security without first obtaining approval of the commission under this section and, if section 54 applies, under that section.”

Note 10 on page 5 of the Application states that “In Step 5 Cal-Gas Amalco also issues preferred shares to SPC, however, preferred shares do not have voting rights and, therefore, no approval requirements are triggered under the UCA.”

- 6.5 Please provide the *percentage* of Cal-Gas voting shares owned by SPC before and after the issuance of common shares identified on page 4 of the Application.
- 6.6 Please clarify if the applicants are seeking approval for the Cal-Gas common share issuance pursuant to section 54(5)(d) or section 50(2) of the UCA, or both.
- 6.7 Please elaborate on why the applicants consider that “no approval requirements are triggered under the UCA” for the preferred share issuance, with specific reference to section 50(2) of the UCA.