

IN THE MATTER OF
the Utilities Commission Act
S.B.C. 1980, c. 60, as amended

and

IN THE MATTER OF
Applications by
Inland Natural Gas Co. Ltd., and
Superior Propane Inc.

DECISION

November 25, 1987

BEFORE:

J.D.V. Newlands, Panel Chairman
D.B. Kilpatrick, Commissioner
N. Martin, Commissioner

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APPEARANCES

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EGON TOBUS	Mayor of Squamish
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W.J. GRANT	
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W.R. HARPER	Hearing Officer
ALLWEST REPORTING LTD.	Court Reporters

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I BACKGROUND

1. Inland Natural Gas Co. Ltd.

Inland Natural Gas Co. Ltd. ("Inland") is the second largest natural gas distribution utility in British Columbia. The Company's primary business is the distribution of natural gas to over 100,000 customers in 54 communities in British Columbia. The service area extends from the Peace River area in the north, through the Caribou and Okanagan regions to the West Kootenays.

Wholly-owned subsidiaries of Inland include Columbia Natural Gas Limited, Fort Nelson Gas Ltd., Grande Prairie Transmission Co. Ltd., Peace River Transmission Company Limited, Inland Development Co. Ltd., Inland Gas & Oil Ltd. and Inland Natural Gas Marketing Ltd.

Inland owns 67.1% of the shares of Trans Mountain Pipe Line Company Ltd. which in turn owns 36% of Inland's voting shares.

2. Squamish Gas Co. Ltd.

A Certificate of Public Convenience and Necessity, dated November 1965, was granted to Squamish Gas Co. Ltd. ("Squamish Gas"), a wholly-owned subsidiary of Cryogenic Enterprises Limited ("Cryogenic"), to construct and operate a natural gas system in the Municipality of Squamish. The system was constructed and put into operation in late 1966 and liquified natural gas was delivered to Squamish by truck from a pilot liquification plant located in Richmond.

In 1969, in an effort to improve the financial viability of the Company, the principals of Squamish Gas contacted Cigas Products Ltd. ("Cigas") with a view to converting the system to propane vapour. As a result, Cigas agreed to install propane equipment and to become the principal propane supplier for the Squamish grid system.

The agreement also contained an option whereby Cigas could purchase all outstanding shares of Squamish Gas. In 1970, at the request of Cryogenic, who were unable to conclude financial arrangements to keep the Company solvent, Cigas acted on the option and with the approval of the then Public Utilities Commission, the transfer of shares was completed.

In 1986, Cigas purchased Monarch Propane Ltd. and Superior Propane Ltd. ("Superior"), and amalgamated the three companies as Superior Propane Inc., which is, in turn, 100% owned by Norcen Energy Resources Limited.

Squamish Gas was financed by its parent company in the form of unsecured advances, and preferred and common shareholdings. In 1986, however, the Company paid off its indebtedness, and in turn, loaned funds to its parent.

In its last Decision, dated February 22, 1977 the Commission did not accept the utility's financing as one overall equity investment by the parent.

The capital structure and embedded cost of debt was imputed using the debt/equity structure of the parent company, Norcen Energy Resources Limited, and the company continues to use this method in calculations for the annual report to the Commission.

Squamish Gas operates a propane distribution system serving the Municipality of Squamish. The system is comprised of 20.67 miles of distribution pipe serving approximately 700 customers.

3. Granisle Grid System

Granisle Grid System ("Granisle Grid") is a division of Superior and carries on the business of distributing propane gas through a propane pipeline grid extension in and about the community of Granisle, B.C.

In September of 1966, Cigas Products Ltd. undertook to install a piped propane system to service 40 houses and a small school being constructed by Dawson Housing on the property of Granisle Copper Limited. On October 18, 1967 a Certificate of Public Convenience and Necessity was issued by the Public Utilities Commission for the piped propane distribution system to serve the Granisle Townsite. This Certificate of Public Convenience and Necessity was amended on October 27, 1972 to include an additional 123 connections. The system currently provides service to approximately 160 customers.

Cigas assumed the name of Superior Propane Inc. in 1986. The division of Granisle Grid has not been a profitable business, its books accumulated a deficit of \$343,000 as at March 31, 1987.

For regulatory purposes, Granisle Grid, similar to Squamish Gas, adopts the capital structure of Norcen, except that it uses the flow-through method of income tax calculation.

II THE APPLICATIONS AND HEARING

Inland made application dated June 18, 1987 for an Order of the Commission pursuant to Section 61 of the Utilities Commission Act ("the Act") approving its acquisition from Superior Propane Inc. of 100% of the shares of Squamish Gas Co. Ltd., a public utility. If the Commission approves the Application, Inland proposes that it would "cause Squamish Gas to purchase from Superior all of the assets of Granisle Grid System and to hold and operate such assets as a separate regulatory unit within Squamish Gas."

Inland further submitted that its proposed acquisitions would have no detrimental effect upon:

- (i) the utilities' ability to finance future capital requirements;
- (ii) the continuation of existing covenants that would preserve the customers' interests;
- (iii) the utilities' ability to maintain the required level of service into the future;
- (iv) the preservation of the public interest; and
- (v) compliance with pertinent legislation and regulations.

In conjunction with the Inland Application, Superior represented by counsel, submitted a separate application dated June 18, 1987 for the approval of the Commission to transfer all of its shares in Squamish to Inland pursuant to Section 61(4) of the Act. Superior requested that the Applications of both Superior and Inland, with respect to Squamish Gas, be heard together as a single record.

Concurrent with the Squamish Gas Application, Superior also applied pursuant to Section 59(1) of the Act to dispose of the whole of its Granisle operation to Squamish Gas at the closing of the transfer of Squamish Gas shares to Inland.

Inland, on April 14, 1987 pursuant to a letter of agreement dated March 31, 1987, deposited \$200,000 in escrow for the purchase of shares of Squamish Gas from Superior. An agreement between the two parties made on June 18, 1987 stipulated the purchase price of all of the outstanding preferred and common shares of Squamish Gas at \$773,635. The closing date specified in that agreement is five days following the date of an Order of the Commission approving the sale but not later than August 31, 1987. This date was subsequently extended to November 30, 1987.

Inland also made agreement with Superior for the purchase by Squamish Gas of the Granisle Grid assets based on a net asset value of \$126,365 as at March 31, 1987, with the purchase to take effect immediately after the transfer of shares of Squamish Gas to Inland.

With reference to Section 61(8) of the Act, which states:

"The commission may give its approval under this section subject to conditions and requirements it considers necessary or desirable in the public interest, but the commission shall not give its approval under this section unless it considers that the public utility and the users of the service of the public utility will not be detrimentally affected",

the Commission issued Order No. G-62-87 dated October 27, 1987 ordering a public hearing to commence November 19, 1987 in Squamish, B.C.

Evidence for Superior was presented by Mr. Peter Martin, Manager of Squamish Gas and Mr. P. Nakoneshny, Manager of General Accounting for Superior. Superior in general supports the Inland Application and urges the Commission to approve the purchase as soon as possible.

Witnesses appearing for Inland were Mr. W.R. Powell, Executive Vice-President, Mr. G.M.O. Solly, Vice-President, Operations and Mr. P.J. Murray, Manager, Technical Services.

Mr. A. Hyrapet, a local resident raised concern about the high price of propane services as compared to alternate fuels (i.e. oil), and provided, subsequent to the hearing, a document comparing prices of furnace oil and propane in Squamish for the period 1982 to 1987. Mr. Hyrapet suggested that propane prices should be pegged to the price of furnace oil, and that any adjustment should be retroactive to May 1, 1986.

The Commission has considered the evidence of Mr. Hyrapet and the position of Inland with respect to limiting the retroactivity of its proposed reduced rates for propane to September 28, 1987. The Commission concludes that in the circumstances the Inland proposal is an acceptable compromise in the interests of both Squamish Gas and its customers. With respect to competitive fuels and Mr. Hyrapet's suggestion that the price of propane be "pegged to" the price of fuel oil the Commission would expect a gas utility with the experience and marketing skills of Inland Natural Gas to recognize the importance of remaining at all times competitive with competing fuels whenever possible.

III THE ISSUES

The following issues were considered by the Commission in determining its Decision in this case.

I. Cost of Propane

The cost of propane was an issue extensively canvassed at the hearing with the witnesses for both Superior Propane and Inland. Squamish Gas is currently paying Superior the wholesale cost (price f.o.b. refinery gate plus freight).

Squamish Gas has signed a propane purchase agreement with Superior for the supply of all propane required for the Squamish and Granisle systems. That agreement is automatically renewable on April 1st of each year for one year terms, and may be cancelled in writing by either party 90 days prior to April 1st in any year. A copy of the Gas Purchase Agreement dated June 30, 1987 is attached as Appendix C to this Decision.

Under Inland ownership, Squamish Gas will be paying as specified in the aforementioned agreement, the current rack price at the point of purchase plus taxes and freight, plus 1/10 cent per litre for handling by Superior.

During the hearing and in response to a concern of the Commission, and although the new agreement does not so specify, Superior stated that the company would undertake to supply Squamish Gas from the lowest cost source consistent with security of supply (Transcript page 17).

Inland indicated that, if subsequent to approval of its Application by the Commission, Inland found unworkable features in the agreement and negotiation with Superior were to fail, Inland could if necessary cancel the agreement on 90 days notice (Transcript pages 53 and 163).

In response to the Commission's request, Inland agreed to obtain from Superior and file with the Commission monthly reports comparing Superior's propane price to Squamish Gas with the prices available from other B.C. propane suppliers. Pursuant to Section 93 of the Act, until further notice these reports are to be provided to the Director of Petroleum Engineering at the Commission.

To provide a mechanism for dealing with fluctuating propane prices, Inland proposed establishing a deferral account in the books of Squamish Gas. While the Commission recognizes the desirability of some such mechanism, it is not prepared to approve a deferral account at this time but will further consider the matter as part of the anticipated Squamish Gas rate review. In the interim, the Commission directs that the price of propane F.O.B. Squamish will be allowed to fluctuate by one cent per litre before customer rates are adjusted to reflect the change in cost.

2. Adequacy of Plant and Equipment

The existing pipeline grid consists of steel pipe coated with yellowjacket. Corrosion protection was added to the system in 1974. Commission Counsel cross-examined the witnesses of both Superior Propane and Inland with respect to the current state of the physical assets of Squamish Gas and future plans to upgrade the system.

The gas plant includes four propane storage tanks and related vapourizing equipment. Propane supply to the system is provided by rail tank car. Storage is adequate for the current requirements of the system, although Squamish Gas at times maintains a rail propane tank car at the siding during peak demand periods. Inland testified that their review of the gas plant indicated that it met existing code requirements and was safe. Inland is concerned, however, that one of the boilers is quite old and might require replacement. Inland indicated that it would review in detail the future storage requirements of the gas plant and the vapourization equipment, and also committed to a

review of the assets in relation to the most recent Canadian Standards Association Code requirements.

With respect to the pipeline grid, Inland testified that the system is very "tight". In support of this opinion Squamish Gas provided as evidence the leak survey assessments done by Commonwealth Leakage Consultants Ltd. Based on that evidence the Commission accepts the testimony that the pipeline grid system is in good repair.

While the Commission accepts that the pipeline grid may be currently in satisfactory operating condition, the Commission directs that Inland conduct and file an engineering assessment by the end of March, 1988 to identify the procedures Inland will follow in future to ensure the ongoing integrity of the pipeline system. These plans should include periodic leak surveys and regular monitoring of gas volumes to identify future leaks.

During cross-examination Superior Propane outlined the emergency response procedure that is currently in place for Squamish Gas. Inland testified that the operating manager at Squamish would be hired by Inland to ensure ongoing knowledge of the operation.

The Commission, however, concludes that Inland should review the emergency response capability and emergency plans and manuals that may exist for Squamish Gas. Accordingly, Inland is directed to provide the Commission with documentation of the emergency plans and response capability available for Squamish Gas by the end of March, 1988.

Inland testified that it has tentative plans to extend service to the Garibaldi Highlands subdivision at an estimated capital cost of \$300,000. Inland anticipates that the construction costs to extend service to that new area would be substantially less than historic costs for the Squamish system. Inland testified that savings would result from the use of plastic pipe, and the significant scale of the extension would probably permit some contract savings.

The Commission notes the magnitude of this potential expansion in relationship to the current rate base of Squamish Gas, and is concerned with respect to the possible impact of Inland's expansion plans on the existing customers of Squamish Gas. Accordingly, until a revised Mains Extension Policy is filed, the Commission directs that Squamish Gas obtain approval before undertaking any mains extension in excess of \$50,000.

3. Revenue Requirements and Rates under Inland Ownership

In its Application (Exhibit 3, Tab 4), Inland stated that among the benefits it intended to bring to any utilities which it acquires, is the reduction of rates paid by consumers to the lowest possible level consistent with a reasonable level of service. The Commission notes that this commitment was emphasized by Mr. Randall Powell, Executive Vice-President and chief policy witness for Inland, in his opening remarks to the Commission at the hearing.

As a first step in implementation of that policy, Mr. Powell testified that if the Inland Application is approved Inland will cause Squamish Gas to reduce its rates to customers retroactively to September 28, 1987 on an interim basis, pending a rate review by the Commission. In subsequent cross-examination and in final argument, Inland indicated that if after such a review based on a 1988 test year, the interim reduced rates were found to be still excessive, they would be further reduced retroactively to September 28, 1987, but if found to be inadequate to produce the appropriate rate of return on equity, the rates would not be increased retroactively.

In the course of these proceedings Inland, as part of its preparation for the aforementioned rate review, agreed to look into a number of matters bearing upon future revenue requirements and rates. These include consideration of the adoption by Squamish Gas of the 60/40 capital structure prevailing in Columbia Natural Gas Limited ("Columbia"), the appropriate costs of the assumed debt and equity content, the possible adoption of the flow-through method of income tax accounting, and the pros and cons of adopting Inland's tariff provisions inclusive of Inland's extension policy, as an alternative to creating a new and separate tariff for Squamish Gas.

Inland has proposed that its management fees to be charged to Squamish Gas for administrative and special services in the the range of \$35,000 to \$50,000 per year. The Commission notes that this falls in the range actually experienced during Superior's ownership and is consistent with the Commission's ceiling of \$45,000 imposed in the Commission's Decision of February 22, 1977.

In its response to the Commission's request for additional information (Exhibit 4, Tab 2, p. 1) and in cross-examination, Inland proposed that it would not attempt to recover the premium over the book value of the equity reflected in the price to be paid for Squamish Gas (Transcript page 69). The Commission accepts the Applicant's proposal.

Pending the outcome of the anticipated rate review, the Commission directs that Squamish Gas:

- (a) acquire any debt financing through Inland at the same cost as to the parent, and maintain the debt and equity components in the ratio of 60/40.
- (b) account for income taxes by both the flow-through and deferred tax methods for comparison in the planned rate review based on the Test Year 1988.
- (c) limit the allowance for management fees charged by Inland to a maximum of \$50,000 per year.

- (d) file a tariff amendment adopting Inland's mains extension test effective December 1, 1987.
- (e) consider and discuss with Commission staff as a priority matter, adoption by Squamish Gas of Inland's overall tariff, terms and conditions, to the extent applicable and appropriate.

4. The Granisle Assets

Inland has testified that the sale by Superior Propane to Squamish Gas of the assets of the Granisle Grid System is part of a package deal, without which Superior is unwilling to sell Squamish Gas. On that basis Inland has seen fit to attribute a value to those assets of \$126,365, being the total asset balance on the books of Granisle as of March 31, 1987 (Exhibit 3, Tab 2, Schedule F).

During cross-examination it became apparent that the accumulated and continuing losses recorded by the Granisle operations, together with its very uncertain future suggest that attributing any value to those assets is difficult to justify. Inland testified that in light of the many uncertainties involved, it could not commit to specific plans at this time but acknowledged there were a number of alternatives including possible shutdown and write-off of the Granisle facilities.

While Inland testified that it took no position on the matter, in the event that Inland's Application is approved the Commission believes that a simple transfer of the required Certificate of Public Convenience and Necessity from Superior Propane to Squamish Gas, rather than the issuance of a new Certificate to the latter, is the appropriate procedure and will so order. Inland acknowledged that so long as the Certificate is in place, it has an obligation to continue to provide service through Granisle until relieved of that obligation through Application to the Commission.

5. Future Plans for Squamish Gas and Granisle Grid

(i) Potential Expansion

At the hearing Inland was cross-examined on its preliminary plans for both Squamish Gas and the Granisle Grid. While Inland testified that pending approval of its acquisition of Squamish Gas by the Commission, it was compelled to "stand on the sidelines" without adequate access to the required information to support its case. The Commission notes that the Agreement between Superior and Inland (Exhibit 3, Tab 1, p. 20) specifically provides for such access.

The Commission accordingly assumes that the decision not to avail itself of that access and make the effort to provide a useful amount of evidence with respect to potential expansion opportunities, system operating efficiencies etc. prior to the hearing, was Inland's decision. In the absence of such evidence, Inland appears to be relying on its own utility experience and expertise and is prepared to risk adverse surprises from such studies if and when they are undertaken.

Specifically, the Commission notes that while Inland testified that (notwithstanding evidence in Exhibit 11 re: the history of negligible growth in Squamish Gas) it believes there is growth potential in the service area, but offered no specific evidence to support that contention. The Commission further notes that under cross-examination Inland acknowledged that if it were to undertake what proved to be uneconomic extensions to the system, the costs would fall upon the existing customers of Squamish Gas.

(ii) Corporate Structure

Inland has proposed that Squamish Gas and the Granisle Grid be operated as separate utilities for regulatory purposes. Since Inland was unable to make any commitment for the continued operation of Granisle and by reason of the

many uncertainties facing that operation, the Commission concurs with the view that Granisle should remain separate for regulatory purposes. With respect to Squamish Gas, however, the Commission believes there could be benefits as the result of absorbing Squamish Gas as a division of Inland and directs the Applicant to consider this alternative in preparing the aforementioned rate review.

(iii) Other Plans

Inland proposes to support future financing for both Squamish Gas and the Granisle grid at its cost of similar debt including third party fees. It also plans to conduct the necessary market studies to support any extension of services, to undertake further assessment of safety practices, and to retain all existing employees.

IV COMMISSION CONCLUSIONS

On the basis of all the evidence heard with respect to the foregoing issues, and compliance by the Applicants with the specific directions contained in this Decision, the Commission, pursuant to Section 61(8), concludes that there is no reasonable basis for anticipating detrimental effects on either the utility or its customers attributable to the acquisition of Squamish Gas by Inland. On the contrary, the Commission is of the view that beyond the immediate benefit which will emerge in the anticipated rate reduction, there will be other as yet unquantified benefits attributable to ownership and operation by a company whose expertise and experience is focussed on utility operations rather than the bulk marketing of propane which is Superior Propane's declared principle objective and interest.

With respect to the proposed sale of the assets of the Granisle Grid System by Superior Propane to Squamish Gas, the Commission concludes, pursuant to Section 59, that the uncertainties facing the future of Granisle are the result of external market forces regardless of who owns the assets. The Commission accordingly concludes that, in the circumstances ownership of those assets by an experienced utility operator is in the public interest.

V THE DECISIONS

1. Acquisition of Squamish Gas by Inland

The Application by Inland Natural Gas Co. Ltd. for an Order approving the acquisition from Superior Propane Inc. of 100% of the voting shares of Squamish Gas Co. Ltd., pursuant to Section 61 of the Utilities Commission Act, is approved subject to the following conditions:

- that any premium to be paid by Inland for Squamish Gas over the net book value of the equity as of March 31, 1987 will not be recovered in the rates to be paid by the Squamish customers at this time. This matter will be reviewed if and when natural gas becomes available in the service area.
- that Squamish Gas will be given free access by Superior Propane to any information substantiating the propane prices to Squamish Gas by Superior, such information to be filed with the Commission on a monthly basis by Squamish Gas.

2. Acquisition of the Assets of Granisle by Squamish Gas

The Application by Superior Propane Inc., for approval to sell the assets of the Granisle Grid System to Squamish Gas Co. Ltd. pursuant to Section 59 of the Act, is approved. The Commission emphasizes, however, that such approval should not be construed by the Applicants as indicating that the Commission has recognized any specific dollar value for the assets of Granisle for regulatory purposes. Furthermore, the Commission reminds Inland that by the purchase of a public utility there is a strong obligation to continue to provide service.

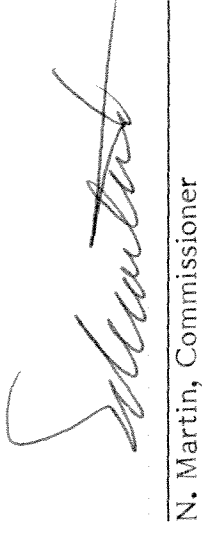
DATED at the City of Vancouver, in the Province of British
Columbia, this 25th day of November, 1987.



J.D.V. Newlands, Deputy Chairman



D.B. Kilpatrick, Commissioner



N. Martin, Commissioner



BRITISH COLUMBIA
UTILITIES COMMISSION

ORDER
NUMBER G-76-87

PROVINCE OF BRITISH COLUMBIA
BRITISH COLUMBIA UTILITIES COMMISSION

IN THE MATTER OF the Utilities Commission
Act, S.B.C. 1980, c. 60 as amended

and

IN THE MATTER OF Applications by
Inland Natural Gas Co. Ltd., and
Superior Propane Inc.

BEFORE: J.D.V. Newlands,)
Deputy Chairman;)
D.B. Kilpatrick,)
Commissioner; and) November 25, 1987
N. Martin,)
Commissioner)

ORDER

WHEREAS Inland Natural Gas Co. Ltd. ("Inland") applied June 18, 1987 pursuant to Section 61 of the Utilities Commission Act ("the Act") for an Order of the Commission approving its acquisition of 30,000 6% Non-Cumulative Redeemable Preferred and 125,000 Common shares of Squamish Gas Co. Ltd. ("Squamish Gas") from Superior Propane Inc. ("Superior") for \$773,635; and

WHEREAS Inland and Superior by agreement dated June 18, 1987 specified that following Commission approval of the acquisition by Inland of Squamish Gas that Squamish Gas would acquire the assets of the Granisle Grid as at March 31, 1987 from Superior Propane Inc. for \$126,365; and

WHEREAS Superior Propane Inc. applied June 18, 1987 pursuant to Section 61(4) of the Act for Commission approval of the transfer of the ownership of all of the shares of Squamish Gas owned by Superior to Inland; and

WHEREAS Superior also applied pursuant to Section 59(1) of the Act to dispose of the whole of its Granisle Grid operations to Squamish Gas at the closing of the transfer of Squamish Gas shares to Inland; and

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BRITISH COLUMBIA UTILITIES COMMISSION	
ORDER	
NUMBER	G-76-87

WHEREAS by Order No. G-62-87 the Commission ordered a public hearing of the Applications to commence Thursday, November 19, 1987 at Squamish, B.C.; and

WHEREAS the Commission has considered the evidence adduced at the public hearing.

NOW THEREFORE the Commission hereby orders as follows:

- A. The acquisition of Squamish Gas Co. Ltd. by Inland Natural Gas Co. Ltd. is approved effective the date of this Order subject to the following conditions:
 - (i) That any premium over the net book value as at March 31, 1987 of the equity of Squamish Gas to be paid by Inland will not be recovered in the rates to be paid by the customers of Squamish Gas.
 - (ii) That Squamish Gas will be given free access by Superior Propane Inc. to any information substantiating the propane prices to Squamish Gas by Superior, with monthly reports thereon to be filed with the Commission.
- B. The acquisition of the Assets of Granisle Grid by Squamish Gas is approved effective the date of this Order but such approval is not to be construed by the Applicants as indicating that the Commission has recognized any specific value for the assets of Granisle Grid for regulatory purposes.
- C. Inland and Squamish Gas will comply with the several conditions contained in the Commission Decision issued concurrently with this Order.
- D. Inland and Squamish Gas will comply with the commitments concerning customer rates as enunciated during the hearing by Mr. Randall Powell, Executive Vice-President of Inland.
- E. The costs of these proceedings are to be shared equally by Inland and Superior.

DATED at the City of Vancouver, in the Province of British Columbia, this 25th day of November, 1987.

BY ORDER


Deputy Chairman

Section 61 of the Utilities Commission Act of British Columbia

Reviewable interests

- 61.** (1) In this section
- "offeree" means a person to whom a take over bid is made;
 - "offeror" means a person, other than an agent, who makes a take over bid and includes 2 or more persons
 - (a) whose bids are made jointly or in concert, or
 - (b) who intend to exercise jointly or in concert any voting rights attaching to the shares for which a take over bid is made;
 - "take over bid" has the same meaning as in the *Securities Act*;
 - "voting share" means a share which has, or may under any special rights or restrictions attached to the share have, the right to vote for the election of directors and for this purpose "share" includes a security convertible into such a share and options and rights to acquire such a share or such a convertible security.

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(2) For the purposes of this section, persons are associates where

- (a) one of the persons is a corporation
 - (i) of which more than 10% of the shares outstanding of any class of the corporation are beneficially owned or controlled, directly or indirectly, by the other person, or
 - (ii) of which the other is a director or officer,
- (b) each of the persons is a corporation and
 - (i) more than 10% of the shares outstanding of any class of shares of one are beneficially owned or controlled, directly or indirectly, by the other, or
 - (ii) more than 10% of the shares outstanding of any class of shares of each are beneficially owned or controlled, directly or indirectly, by the same person,
- (c) they are partners or one is a partnership of which the other is a partner,
- (d) one is the spouse or child of the other,
- (e) one is a trust in which the other has a substantial beneficial interest or for which the other serves as trustee or in a similar capacity,
- (f) one is a relative of the other or of the other's spouse and has the same home as the other, or
- (g) they are obligated to act in concert in exercising a voting right in respect of shares of the utility,

and for the purpose of this definition

- (h) "spouse" includes a man or woman not married to each other who are living together and have lived together as husband and wife for a period of not less than 2 years, and "child" includes a child in respect of whom that person stands in place of a parent, and
- (i) where a person has more than one associate, those associates are associates of each other.

(3) For the purpose of this section, a person has a reviewable interest in a public utility where he owns or controls, or he and his associates own or control, in the aggregate more than 20% of the voting shares outstanding of any class of the utility.

(4) A public utility shall not, without the approval of the commission, issue, sell, purchase or register on its books a transfer of shares in the capital of the utility or create or attach to any shares, whether issued or unissued, any special rights or restrictions where the issue, sale, purchase or registration or the creation or attachment of the special rights or restrictions would

- (a) cause any person to have a reviewable interest,
- (b) increase the percentage of voting shares owned by a person who has a reviewable interest,
- (c) be a registration of a transfer of shares, the acquisition of which was contrary to subsection (6) or (7), or
- (d) increase the voting rights attached to any shares owned by a person who has a reviewable interest.

(5) Failure of a public utility to comply with subsection (4) does not give rise to an offence where the public utility acts in the bona fide belief based on an enquiry made with reasonable care, that the issue, sale, purchase or registration, or the creation or attach-

ment of the special rights or restrictions, would not have the effects referred to in subsection (4) (a) to (d).

(6) No person shall acquire or shall acquire control of such numbers of any class of shares of a public utility as in themselves or together with shares already owned or controlled by the person and his associates, cause him to have a reviewable interest in a public utility unless he has obtained the commission's approval.

(7) Except where 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 his associates, no person having a reviewable interest in a public utility and no associate of that person shall acquire or acquire control of any voting shares in the public utility unless he has obtained the commission's approval.

(8) The commission may give its approval under this section subject to conditions and requirements it considers necessary or desirable in the public interest, but the commission shall not give its approval under this section unless it considers that the public utility and the users of the service of the public utility will not be detrimentally affected.

(9) Where the commission determines that there has been a contravention of subsection (4), (6) or (7), the commission may, on notice to the public utility and after a hearing, make an order imposing on the public utility conditions and requirements respecting the management and operation of the utility.

(10) No proceeding shall be brought against the commission or the government by reason of the exercise by the commission of its powers under subsection (8) or (9).

(11) Every offeror who makes a take over bid for shares of a public utility shall

- (a) file a copy of the take over bid and all supporting or supplementary material with the commission within 5 days after the date the material is first sent to offerees, and
- (b) include in or attach to the take over bid a notice setting forth the provisions of this section and stating the number, without duplication, and designation of any shares of the public utility held by the offeror and his associates.

(12) Nothing in subsection (11) relieves a person from any requirement of or under the *Securities Act* or its regulations.

1982-54-20, proclaimed July 28, 1982, effective July 9, 1982; 1984-25-66.

Section 59(1) of the Utilities Commission Act of British Columbia

Restraint on disposition

59. (1) Except for a disposition of its property in the ordinary course of business, a public utility shall not, without first obtaining the commission's approval, dispose of or encumber the whole or a part of its property, franchises, licences, permits, concessions, privileges or rights, or by any means, direct or indirect, merge, amalgamate or consolidate in whole or in part its property, franchises, licences permits, concessions, privileges or rights with those of another person.

(2) The commission may give its approval under this section subject to conditions and requirements considered necessary or desirable in the public interest.

1980-60-59; 1982-54-18, proclaimed July 28, 1982, effective July 9, 1982.

THIS AGREEMENT made this 30th day of June 1987

BETWEEN

SUPERIOR PROPANE INC. a
federal corporation hereinafter
called "Superior"

OF THE FIRST PART

AND

SQUAMISH GAS CO. LTD. a company
duly incorporated under the
laws of the Province of British
Columbia, herinafter called
"Squamish"

OF THE SECOND PART

(1) WHEREAS Superior is engaged in the business of supplying propane and Squamish is engaged in the business of distributing propane through its grid system to consumers and to certain off grid customers.

(2) AND WHEREAS Squamish also distributes propane through its Granisle Grid System.

NOW THEREFORE this Agreement witnesseth that in consideration of the mutual covenants herein contained and other good and valuable consideration, Superior and Squamish hereby agree as follows:

PART 1

1. During the term of this Agreement Squamish hereby agrees to purchase all its requirements of propane from Superior for the purposes of supply through the Squamish and Granisle grid systems in the province of British Columbia and Superior agrees to supply all such requirements upon the terms and conditions hereinafter set forth.

2. The initial term of this Agreement for the supply of propane shall commence on the date of closing as contemplated in the agreement between Superior and Inland Natural Gas. Co. Ltd. dated the 18th day of June 1987, (the "June 18, 1987 Agreements"). The Agreement shall renew automatically for subsequent one year terms commencing April 1st of each year, unless cancelled in writing by either party giving notice of not less than ninety (90) days prior to the expiration of the initial or any subsequent term created hereunder.

3. Superior agrees to supply stenched Grade 1 propane (HD5) to the Squamish and the Granisle facilities.

4. Superior agrees that it shall supply propane to Squamish and Granisle at the current rack price at point of purchase plus taxes, plus freight, plus 1/10 cent per litre. The

current rack price is subject to change as the refinery source may direct and Superior will advise Squamish of such change at the time and place of each delivery.

5. Squamish agrees to pay Superior for the propane purchased within thirty (30) days from the receipt of invoices supplied by Superior to Squamish.

6. Squamish acknowledges that while Superior shall use its best efforts to supply propane, Superior shall not be liable for Superior's failure or delay in delivering propane due to any event or occurrence which is beyond the control of Superior, but Superior shall immediately notify Squamish of such event or occurrence.

7. Superior and Squamish agree that during the initial term of this Agreement or any subsequent renewal thereof that the following procedure shall govern orders and deliveries of propane to Squamish.

(1) Squamish shall set out and advise Superior one full month's delivery schedule, sixty (60) days in advance, of the prescribed monthly requirement.

(2) Superior will permit cancellation of any scheduled shipment upon five (5) days notice by

Squamish to Superior.

- (3) Squamish will endeavour to keep Superior advised of their supply pattern.

PART 11

8. Except as provided herein Squamish agrees that Superior shall have the right to continue to utilize the Squamish facility as a terminal for a period of five (5) years from date of closing as contemplated in the June 18, 1987 Agreement, from which Superior may draw its requirements of propane for the purposes of supply and servicing to the customers of Superior. This arrangement may, however, be terminated at any time by either party upon the giving to the other party one hundred and eighty (180) days written notice.

9. In consideration of the arrangement as set out in Paragraph 8 herein, Superior shall pay to Squamish Squamish's cost of product as determined in Paragraph 4 herein, together with 1/2 cent per litre, said amount payable on the quantity of product acquired by Superior from Squamish and payable thirty (30) days from receipt of invoices supplied by Squamish to Superior.

10. During the term of this Agreement, at the request of Squamish, Superior shall conduct the maintenance of the storage facilities on a time and materials basis. The hourly rate chargeable herein shall be \$27.00 per hour per man. Superior shall supply to Squamish and Granisle the motors and pumps at current list price less 20% and the other parts required to maintain the plant at current list price less 30%.

11. As requested by Superior, Squamish agrees to provide to Superior for Superior's operations in and about the municipality of Squamish, monthly administrative services such as: office services, customer service, collections and payments, meter reading, customer sign ups, supervision and other services which Squamish may provide to Superior from Squamish's local office and local employees. For such requested services, Superior shall reimburse Squamish at the rate of \$1,000.00 per month for the month in which the said services are requested and utilized.

12. As and when requested by Squamish and Granisle, Superior agrees, subject to availability of manpower, to make available to Squamish and Granisle the services necessary to assist Squamish and Granisle in customer service, standby service, plant operation and maintenance, new customer

connections and other propane grid system services. For such services Squamish and Granisle shall reimburse Superior at the rate of \$20.00 per hour, per man, plus accommodation and meals; said rate to be effective for the first six (6) months as to Squamish from date of closing as contemplated in the June 18, 1987 Agreements and for the first twelve (12) months as to Granisle from the date of closing as contemplated in the June 18, 1987 of these Agreements as it affects Granisle; and thereafter the rate shall be increased to \$27.00 per hour, per man.

13. As requested by Squamish, Superior shall supply a bulk truck and driver to effect deliveries to the customers of Squamish who are within the rate base of Squamish but who are off-grid customers. For this service, Squamish and shall pay to Superior the sum of 4 cents per litre.

14. The term of the Agreement for the supply of services under clause 8 shall be for a period of five (5) years commencing upon the date of closing as contemplated in the June 18, 1987 Agreements and subject to termination at any time as set out in clause 8. The term of the provisions of clauses 11, 12, 13 shall be for a period of twelve (12) months commencing upon the date of closing as contemplated in the June 18, 1987 Agreements. Such terms shall renew automatically for subsequent twelve (12) month terms unless cancelled in writing by either party giving notice not less

than ninety (90) days prior to the expiration of the initial and any subsequent term created hereunder.

PART 111

15. Squamish and Superior acknowledge and agree that the terms and conditions expressed in this agreement constitute the entire agreement and that there are no representations and warranties relied upon by either party not expressed herein.

16. Squamish and Superior agree that the terms and provisions of this agreement shall be governed by and be interpreted by the laws of the province of British Columbia.

17. Any notice required or omitted to be given pursuant to this agreement shall be in writing and shall be forwarded by prepaid registered mail to the parties at the following addresses:

Squamish Gas Co. Ltd.
c/o Inland Natural Gas Co.
Box 12603, 1066 West Hastings Street
Vancouver, B.C.
V6F 3G3
Attn: G. M. O. Solly, Vice-President Operations

and to

Superior Propane Inc.
8474 Keele Street
Concord, Ontario
L4K 2S5
Attention: Vice-President, Marketing

and to

Superior Propane Inc.
715 - 5th Avenue S.W.
Calgary, Alberta
T2P 2X7

18. This Agreement shall enure to and be for the benefit of and be binding upon the parties hereto, their respective successors and assigns.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

SQUAMISH GAS CO. LTD.

Per: *John J. Kline*

Per: *L. J. Simon*

SUPERIOR PROPANE INC.

Per: *John J. Kline*

Per: *L. J. Simon*