

**ORIGINAL**

Decision No. 36483

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )	
Robert M. Upton to sell and W. H. )	
Macy and Anna Holben Macy to pur- )	Application No. 25678
chase the Upton Warehouse situated )	
in the City of Red Bluff, California.)	

BY THE COMMISSION:

O P I N I O N

By application filed June 26, 1943, Robert M. Upton seeks authority to sell and W. H. Macy and Anna Holben Macy seek authority to purchase designated public utility warehouse property and equipment used in the public utility warehouse business conducted at Red Bluff, Tehama County, as "Upton Warehouse."<sup>1</sup> Upton claims that he is unable to continue to operate the warehouse in a satisfactory manner. On the other hand, the purchasers, who now operate a public utility warehouse at Red Bluff, claim that with the facilities acquired from Upton they will be in a position to provide adequate public utility storage service.

The total consideration involved, \$2,000, is to be paid in cash. It is asserted that this sum represents the value of the warehouse premises, certain equipment described in the application, the seller's leasehold interest in the land upon which the warehouse is located, and his operative rights. Such may be the understanding between the parties, but it should be clearly understood that the authorization hereinafter granted is not an approval of the purchase

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<sup>1</sup> The property is described in the agreement designated as Exhibit "A" of the application.

price in any respect, nor a finding of value for the purpose of rate fixing, issuance of securities, accounting, or for any other purpose. No examination has been made by this Commission, nor by its authorized representatives, of the physical assets involved in this transfer as to their existence, value or ownership.

W. H. Macy and Anna Holben Macy are placed upon notice that "operative rights" as such do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights.

The transfer as proposed herein appears to be in the public interest and the application will therefore be granted. A public hearing is not necessary.

O R D E R

IT IS ORDERED:


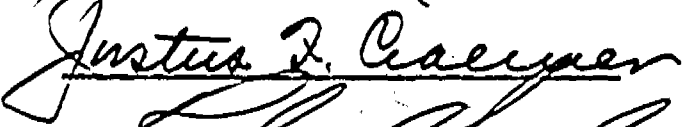

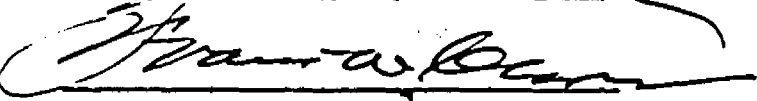
1. That Robert M. Upton is authorized to sell and W. H. Macy and Anna Holben Macy are authorized to purchase the public utility warehouse property involved in this application in accordance with the terms of the proposed agreement attached to the application as Exhibit "A".

2. The authority herein granted is subject to the provisions of Section 52(b) of the Public Utilities Act and further to the condition that W. H. Macy and Anna Holben Macy, their successors or assigns, shall never claim before this Commission, or any court or other public body, a value for said operative rights or claim as the cost thereof, an amount in excess of that paid to the State as the consideration for such rights.

3. That the authority herein granted is subject to the further condition that Robert M. Upton and W. H. Macy and Anna Holben Macy shall comply with the rules of the Commission's General Order No. 61 by filing, in triplicate, and concurrently making effective tariffs satisfactory to the Commission within sixty (60) days from the effective date hereof and on not less than five (5) days' notice to the Commission.

This order shall become effective twenty (20) days from the date hereof.

Dated at San Francisco, California, this 13<sup>th</sup> day of July, 1943.

  
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Commissioners