

ORIGINAL

Decision No 40129

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
Max Karp, Jeannette Karp, Albert Levie)
and Elinor Levie, Sellers and Lewis)
Rex Feldman and Hortense Feldman,)
Buyers for an order authorizing the)
sale of property necessary or useful)
in performance of duties to the public.)
-----)

Application
No. 28268

O P I N I O N

Max Karp and Jeanette Karp, Albert Levie and Elinor Levie, hereinafter sometimes referred to as Sellers, own and operate cold storage warehouse properties at Palmdale, California, under the name of Antelope Valley Refrigerating Company. They ask permission to sell their warehouse properties, which are described in detail in Exhibit "A" on file in this application, to Lewis Rex Feldman and Hortense Feldman, hereinafter sometimes referred to as Buyers.

The Buyers have agreed to pay for the properties \$115,000 payable as follows:

\$ 5,000	upon signing the agreement
5,000	upon closing of escrow agreement
5,000	upon installation of a condenser
15,000	on or before March 31, 1947
14,750	assumed mortgage payable at rate of \$250
	per month including interest at 5%
70,250	payable at rate of \$450 a month including
	interest at 5% until the \$14,750 mentioned
	above has been paid, and then \$750 a month
	until final payment is made
<u>Total</u>	<u>\$115,000</u>

The terms of payment are more specifically set forth in the agreement of sale on file in this application as Exhibit "D".

Applicants report the original cost of the properties at about \$175,000, and their insurable value at \$142,478.32.

The petition shows that Max Karp has retired from all business activities and that Albert Levie, because of the condition of his health, has moved to Los Angeles. Sellers report that they cannot properly operate the properties from Los Angeles. Buyers intend to reside in Palmdale.

Sellers have for the past five years reported net income as follows:

1942	\$ 5,249.65
1943	14,120.49
1944	11,138.41
1945	16,323.36
1946	1,629.39

Buyers intend to augment the nonutility business of the company's operations.

Sellers through inadvertence did not ask permission to issue the \$15,000 note, balance due now \$14,750, or to execute the deed of trust and mortgage of chattels to secure the payment of the note. A copy of the note, a copy of the deed of trust and a copy of the mortgage of chattels are on file in this application. The holder of the note may pay the principal of the note at any time.

Under the agreement of sale, Sellers retain title to the properties until final payment is made by Buyers. It occurs to us that under these circumstances Sellers should not be permitted to divest themselves of their public utility properties until such time as payments contemplated by the agreement have

been made by Buyers, and they are entitled by the terms of the agreement, or by an amendment thereto, to the conveyance of the title to the properties. The order herein will authorize the Buyers and the Sellers to enter into said conditional sale agreement contemplating prospective transfer of the properties operated under the name of Antelope Valley Refrigerating Company. Under our authorization Sellers must continue to occupy their present responsibility for the rendition of adequate service at reasonable rates. They may, however, permit Buyers to conduct the business on their behalf, they to act as their agents for the duration of the agreement. Buyers in turn may file tariff schedules and reports with the Commission, but must do so as "Agents for Sellers". In short, the authorization herein granted contemplates a dual responsibility to the public for continued cold storage warehouse service at Palmdale.

At such time as Buyers may have complied with the terms of the conditional sale agreement herein authorized, and Sellers are prepared to execute a bill of sale covering the property involved, the parties may, by supplemental application, apply to the Commission for a final order authorizing the sale and transfer of the properties. Until such final order has been made by the Commission, Sellers shall continue to be responsible for the operation of the properties and the possession of the Buyers will be only that of "Agents for Sellers".

In the event that the parties do not wish to take advantage of the authorization herein granted, they are free to present to the Commission a request to transfer the properties based upon an agreement vesting legal title in the Buyers, and if

they so desire, protect Sellers' interest by requiring that an appropriate note and mortgage be executed in their behalf. Such a transaction, we believe, is contemplated under Sections 51 and 52 of the Public Utilities Act, the latter section being applicable in that an indebtedness extending over a period of years is contemplated.

O R D E R

The Commission having considered applicants' request and it being of the opinion that this is not a matter on which a hearing is necessary, that the money, property or labor to be procured or paid for through the issue of the note and execution of deed of trust, mortgage of chattels and conditional sale contract is reasonably required by applicants for the purposes herein stated, and that subject to the conclusions set forth in the foregoing opinion this application should be granted, therefore,

IT IS HEREBY ORDERED as follows:

1. Max Karp, Jeanette Karp, Albert Levie and Elinor Levie may, for the purpose of acquiring properties and improving or maintaining their business, issue a 5% installment note for the sum of not exceeding \$15,000 and execute a deed of trust and a mortgage of chattels to secure the payment of such note, said note, deed of trust and mortgage of chattels to be in, or substantially in, the same form as those on file in this application.

2. Max Karp, Jeanette Karp, Albert Levie and Elinor Levie, Sellers, and Lewis Rex Feldman and Hortense Feldman,

Buyers, are hereby authorized to enter into a conditional sale agreement, by the terms of which Sellers agree to sell and Buyers agree to purchase the Antelope Valley Refrigerating Company cold storage properties described in Exhibit "A" on file in this application, said sale and purchase to be made in accordance with the terms of the agreement on file in this application as Exhibit "D".

3. During the pendency of the agreement authorized by the preceding paragraph and until supplemental authorization to effect the sale and transfer of said Antelope Valley Refrigerating Company properties is sought and obtained, Buyers may take possession of said properties and operate the same as "Agents for Sellers."

4. Within twenty (20) days after taking possession of said properties, Buyers shall file with the Public Utilities Commission a notice that they have adopted the tariff schedules in effect on the date of taking possession, and that said notice and subsequent tariff filings and reports shall be filed with the Commission by said Buyers as "Agents for said Sellers".

5. Within thirty (30) days after the execution of the agreement herein authorized, a true and correct copy of said agreement shall be filed with the Public Utilities Commission.

6. The authority herein granted will become effective when applicants, or either of them, have paid the fee prescribed by Section 57 of the Public Utilities Act.

Dated at San Francisco, California, this 8th
day of April, 1947.

Harold P. Hub
James F. Cooney
Frank Powell
A. J. ...
Herbert ...
 Commissioners

