

ORIGINAL

Decision No. 77800

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JAMES B. PACKARD,

Complainant,

vs.

PACIFIC TELEPHONE, a  
corporation,

Defendant.

Case No. 8998  
(Filed December 1, 1969)

JAMES B. PACKARD,

Complainant,

vs.

PACIFIC GAS & ELECTRIC CO.,  
a corporation,

Defendant.

Case No. 8999  
(Filed December 1, 1969)

James B. Packard, for self, complainant.

Robert E. Michalski, for The Pacific Telephone  
and Telegraph Company, defendant in Case  
No. 8998.

John A. Sproul, for Pacific Gas and Electric  
Company, defendant in Case No. 8999.

Leland S. Fisher, for City of Vallejo, and  
Roger Arnebergh, by Thomas C. Bonaventura,  
for City of Los Angeles, intervenors.

Samuel Gorlick, for City of Burbank; Joseph W.  
Rainville, for City of Glendale; Wendell R.  
Thompson, for City of Pasadena; and

Stanley E. Remelmeyer, for City of Torrance;  
amici curiae.

Elmer Sjostrom, Counsel, for the Commission staff. ✓

O P I N I O N

Case No. 8998 is a complaint by James E. Packard (herein-  
after referred to as Packard) against The Pacific Telephone and  
Telegraph Company (hereinafter referred to as PT&T). Case No. 8999

is a complaint by Packard against Pacific Gas and Electric Company (hereinafter referred to as PG&E). Each complaint involves a situation in which the utility defendant has attempted to collect from Packard a utility users tax which was enacted by the City Council of the City of Vallejo (hereinafter referred to as Vallejo). Because of the related subject matter, the complaints were consolidated for hearing.

A duly noticed public hearing was held in these consolidated matters before Examiner Jarvis in San Francisco on February 26, 1970. Leave was granted for Vallejo and the City of Los Angeles (hereinafter referred to as Los Angeles) to intervene. These matters were submitted subject to the discretionary filing of briefs 60 days after the filing of the transcript. Thereafter, leave was granted for the Cities of Burbank, Glendale, Pasadena and Torrance to file an amici curiae brief. The matter was submitted on May 6, 1970. ✓

Preliminarily, we note that Packard, who appeared in propria persona, is not an attorney and did not file a brief. PT&T, PG&E, Vallejo, Los Angeles, the amici curiae cities and the Commission staff, all represented by able counsel, filed briefs. We have carefully considered all the issues raised by the complaint and the evidence because "the Commission represents the public interest in the field of public utility regulation and is charged with the protection of that interest. (United States v. Merchants and Manufacturers Assn., 242 U.S. 178, 188, 61 L. Ed. 233, 239; Hanlon v. Eshelman, 169 Cal. 200, 202-203; Sale v. Railroad Commission, 15 Cal. 2d 612, 617-618.)" (Petition of City of Los Angeles, 56 Cal. P.U.C. 133, 136-37.)

The defendants, intervenors and amici curiae contend that the complaints should be dismissed because the Commission has no jurisdiction to entertain them. They argue that the complaints attempt to challenge the legality of a tax and that the only forum in which such question can be raised is the superior court.

Section 1702 of the Public Utilities Code provides in part that:

"Complaint may be made by the commission of its own motion or by any person ... by written petition or complaint, setting forth any act or thing done or omitted to be done by any public utility, including any rule or charge heretofore established or fixed by or for any public utility, in violation or claimed to be in violation, of any provision of law or of any order or rule of the commission."

A complainant is not required to set forth a theory for relief. It is only necessary to allege facts upon which the Commission may act. (Code Civ. Proc. §426.) Furthermore, pleadings "must be liberally construed, with a view to substantial justice between the parties". (Code Civ. Proc. Sec. 452; Buxbom v. Smith, 23 Cal. 2d 535, 542; Gerritt v. Fullerton, etc. Dist., 24 Cal. App. 2d 482; Smith v. Kern County Land Co., 51 Cal. 2d 205; Schaefer v. Berinstein, 140 Cal. App. 2d 278, 299; M. G. Chamberlain & Co. v. Simpson, 173 Cal. App. 2d 263, 267.) Of course, for the Commission to have jurisdiction to entertain a complaint the matter must be cognate and germane to the regulations of public utilities (City of San Bernardino v. Railroad Commission, 190 Cal. 562, 565), a point hereinafter extensively considered.

The two complaints here involved are similar. They allege the enactment of Vallejo City Ordinance No. 909 N.C. which imposes a 5 percent utility users tax; that PT&T and PG&E have attempted to apply the tax to Packard; that Ordinance No. 909 N.C. is illegal; that Packard has refused to pay the tax and that a "temporary arrangement" exists between Packard and each defendant that he remit only the net amount of the utility bill leaving out the amount of the tax "without penalty".

The complaints, liberally construed, raised the following issues: 1. Does Vallejo under the constitution and general laws of this State have the power to enact this type of a municipal tax? 2. Assuming Vallejo has the power to enact municipal taxes, was Ordinance No. 909 N.C. properly enacted under the terms of the Vallejo City Charter? 3. Assuming Vallejo has the power to enact municipal taxes does the comprehensive scheme of regulation of public utility rates and charges provided in the constitution and Public Utilities Code preclude Vallejo from enacting the particular tax here involved? (See, e.g., Century Plaza Hotel Co., v. Los Angeles, 87 Cal. Reprtr. 166; Baron v. Los Angeles 3 Cal. 3rd 535.) 4. Assuming Vallejo has the power to enact a utility users tax to what extent can it compel a utility to act as its collection agent therefor? 5. Assuming Vallejo has the power to levy a utility users tax and compel a utility to act as its collection agent can the utility discontinue service if a customer fails to pay the tax?

Clearly, the Commission has no jurisdiction to determine whether or not Vallejo is authorized to enact a utility users tax under the general law of the State or whether the provisions of the Vallejo City Charter were properly followed in the enactment of Ordinance No. 909 N.C. (Code Civ. Proc. §89; Hempy v. Public Util. Comm., 56 Cal. 2d 214; City of Madera v. Black, 181 Cal. 306; Cal. Emp. Etc., Comm. v. Citizens Etc., Bk., 73 Cal. App. 2d 915).

The question of the Commission's jurisdiction to determine whether Ordinance No. 909 N.C. conflicts with the comprehensive scheme of statewide regulation of utilities, their service and charges, contained in the Public Utilities Code is a closer one. We need not, however, rule on this point because, assuming the Commission has

jurisdiction to consider this issue, we decline to do so herein. The superior court has the jurisdiction to determine Vallejo's power to enact a utility users tax under the constitution and laws of this State, including the Public Utilities Code. Consideration of the extent of Vallejo's taxing power and the validity of Ordinance No. 909 N.C. should ordinarily not be split between two forums, particularly where one can adjudicate all of the issues and the other cannot. (See 1 Cal. Jur. 2d, Actions §§75, 77.) We find no compelling circumstances herein to deviate from this rule on the issue just discussed.

There is nothing more cognate and germane to the regulation of public utilities than consideration of the discontinuance of a customer's utility service and the rates and charges asked by a utility. (Pacific Telephone & Telegraph Co. v. Superior Court, 60 Cal. 2d 426, 429; Public Util. Code §§454, 494, 495, 532, 701, 702, 703, 734, 761.)

Section 532 of the Public Utilities Code provides in part as follows:

"532. No public utility shall charge, or receive a different compensation for any product or commodity furnished or to be furnished, or for any service rendered or to be rendered, than the rates, tolls, rentals, and charges applicable thereto as specified in its schedules on file and in effect at the time..." 1/

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1/ At the hearing, the Examiner indicated that Section 494 of the Public Utilities Code might also be applicable. Section 494 is similar to Section 532 and applies to common carriers. Amici curiae contend that Section 494 is not applicable to these consolidated matters. Because Sections 494 and 532 are similar it is not necessary to pass upon this point. We note, however, that the definition of common carrier in Civil Code Section 2168 includes one who carries messages, excepting only telegraph messages. It would appear that Section 494 is applicable to defendant PT&T. (River Lines v. Public Util. Comm., 62 Cal. 2d 244, 247-248.)

It is undisputed that the Commission has not authorized PT&T and PG&E to include the Vallejo tax on their bills to customers and neither utility has on file with the Commission a tariff schedule which provides for the collection of the tax. Vallejo contends that when a utility collects the tax it is not collecting a charge or compensation within the meaning of Section 532. The amici curiae argue that if Vallejo has the power to enact the tax it may provide a reasonable mode for the collection of the tax, including requiring the utility to act as a collection agent. This argument begs the question here involved. If the mode of collection contravenes provisions of the Public Utilities Code or lawful orders of this Commission acting in matters of statewide concern, such mode of collection is not reasonable but unlawful. It is axiomatic that state laws take precedence over municipal ordinances. If the record discloses that Ordinance No. 909 N.C. requires PT&T and PG&E to take actions with respect to their customers which are prohibited by the Public Utilities Code or lawful orders of this Commission, the Commission has jurisdiction herein to order PT&T and PG&E to refuse to comply with the illegal portions of the ordinance. (Public Util. Code §1702; PG&E Co., etc. 56 Cal. P.U.C. 66, 67; PG&E Co., 57 Cal. P.U.C. 236, 248; PG&E Co., 57 Cal. P.U.C. 250, 259; So. Cal. Gas Co., 57 Cal. P.U.C. 262, 270.) Furthermore, since Vallejo has appeared in this proceeding it will be bound by any findings and conclusions made herein within the ambit of the Commission's jurisdiction. (San Bernardino v. Railroad Commission, 190 Cal. 562; San Jose v. Railroad Commission, 175 Cal. 284; Union City v. Southern Pacific Co., 261 Cal. App. 2d 277; Pratt v. Coast Trucking, Inc., 228 Cal. App. 2d 139.)

As indicated, the applicability of Section 532 to the issues presented herein presents two important questions: (1) Does Section 532 along with other sections of the Public Utilities Code preclude the enactment by Vallejo of a utility users tax? (2) Assuming that Vallejo can enact a utility users tax does Section 532 preclude it from requiring a utility to act as a collection agent for the tax? The Commission has declined to exercise any jurisdiction it may have with respect to the first question for the reasons heretofore stated. Question two presents a more difficult situation. The Commission clearly has jurisdiction to pass upon this question. However, the arguments dealing with the second question are so inexorably entwined with those dealing with the first question that they cannot be separately considered. For example, if Section 532 is construed to mean that the Legislature intended that utility customers should only be required to pay those rates and charges authorized by the Commission for utility service, and nothing else, then the section must be read as prohibiting the charging or receiving a different compensation by the utility whether or not it retains all of the charge or compensation for its own benefit. Construing Section 532 in such a manner would compel the conclusion that Vallejo had no power to levy the tax. Conversely, construing Section 532 to apply only to charges made and retained by a utility would be indicative of the validity of the tax. Since we have declined to pass on the validity issue herein, the Commission is of the opinion that it should not pass upon another issue which would color the determination of that issue.

Each complaint alleges that "a temporary agreement exists" between the defendant utility and Packard that he will be allowed to deduct the tax and remit the remaining amount on the bill "without

penalty". The Commission takes official notice that the normal "penalty" for the nonpayment of a utility bill is discontinuance of service. Construing these allegations, as we must under the authorities heretofore indicated, liberally with a view to substantial justice between the parties we conclude that they state facts sufficient to invoke the Commission's jurisdiction over a matter cognate and germane to the regulation of public utilities. The pleadings raise the question of whether an alleged threatened discontinuance of service for nonpayments of the tax is a violation of law by PT&T and PG&E. (Pub. Util. Code 1702.)

The material issues raised herein for determination by the Commission are as follows: 1. May a utility disconnect, or threaten to disconnect, service in the event a customer refuses to pay a utility users tax which the utility is required to include as part of its bill? 2. Assuming a city may validly enact a utility users tax, to what degree may the city compel a utility to act as its collection agent? 3. If a utility may lawfully be required to act as the collection agent for a city's utility users tax, what provisions, if any, should be required to insure that the utility does not commingle its tax billing with that for utility services?

Portions of Vallejo Ordinance No. 909 N.C. provides as follows:

"COLLECTION OF TAX.

"(a) Every person receiving payment of charges from a service user shall collect the amount of tax imposed by this ordinance from the service user.



"(b) The tax shall be collected insofar as practicable at the same time as and along with the collection of charges made in accordance with the regular billing practice of the service supplier. Except in those cases where a service user pays the full amount of said charges but does not pay any portion of a tax imposed by this ordinance, or where a service user has notified a service supplier that he is refusing to pay a tax imposed by this ordinance which said service supplier is required to collect, if the amount paid by a service user is less than the full amount of the charge and tax which has accrued for the billing period, a proportionate share of both the charge and the tax shall be deemed to have been paid.

"(c) The duty to collect tax from a service user shall commence with the beginning of the first regular billing period applicable to that person which starts on or after the operative date of this ordinance. When a person receives more than one billing, one or more being for different periods than another, the duty to collect shall arise separately for each billing period.

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"FAILURE TO PAY TAX---ADMINISTRATIVE REMEDY. Whenever the Tax Administrator determines that a service user has deliberately withheld the amount of the tax owed by him from the amounts remitted to a service supplier, or that a service user has failed to pay the amount of the tax for a period of four or more billing periods, or whenever the Tax Administrator deems it in the best interest of the City,

he may relieve the service supplier of the obligation to collect taxes due under this ordinance from certain named service users for specified billing periods. The Tax Administrator shall notify the service user that he has assumed responsibility to collect the taxes due for the stated periods and demand payment of such taxes. The notice shall be served on the service user by handing it to him personally or by deposit of the notice in the United States mail, postage prepaid thereon, addressed to the service user at the address to which billing was made by the service supplier; or, should the service user have changed his address, to his last known address. If a service user fails to remit the tax to the Tax Administrator within fifteen (15) days from the date of the service of the notice upon him, which shall be the date of mailing if service is not accomplished in person, a penalty of twenty-five (25) percent of the amount of the tax set forth in the notice shall be imposed, but not less than \$5.00. The penalty shall become part of the tax herein required to be paid."<sup>2/</sup>

Another provision of Ordinance 909 N.C. provides that the Tax Administrator may make administrative agreements in conformance with the general purpose and scope of the ordinance. The record indicates that PG&E has an administrative agreement with Vallejo and PT&T does not. The PG&E agreement provides for referral of a delinquent taxpayer's account back to the city where there has been a refusal to pay the tax for four billing periods.

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<sup>2/</sup> The Los Angeles utility users tax, which is attached to the Petition In Intervention, contains substantially similar provisions.

PT&T and PG&E take the position that they have no obligation under the ordinance to enforce the collection of the utility users tax by discontinuance of service. They argue that they have not and do not intend to discontinue service for the refusal of a customer to pay the tax. They contend, that, as a practical matter, cities which levy such a tax, including Vallejo, always exercise the discretionary provisions of the ordinance and relieve a utility from its obligation to enforce collection of the tax where a customer has refused to pay it and the city then attempts to collect.

The Commission finds and concludes that even if it be assumed, for the purposes of discussion only, that Vallejo may enact a utility users tax and require PT&T and PG&E to include the amount of the tax on the bills which they send their Vallejo customers, PT&T and PG&E are prohibited by law from discontinuing, or threatening to discontinue the service of a customer who pays for the utility service furnished but refuses to pay the tax. (Public Util. Code §454, 489, 491, 532, 701, 702.) Furthermore, we are of the opinion that Ordinance No. 909 N.C. is illegal to the extent it attempts to compel a utility to enforce collection of the tax where there has been a refusal by a utility customer to pay it.

"All persons residing within the service area of a public utility are entitled by legal right to service upon application therefor, without discrimination, to the reasonable extent of the facilities ..." (Williams v. Utica Mining Company, 31 C.R.C. 602, 607-608.) "... [T]he duty to serve impartially is correlative with the right to demand and receive the service applied for." (International Cable T.V. Corporation v. All Metal Fabricators, Inc., 66 Cal. P.U.C. 366, 383.)

Under the foregoing rules a utility, unlike a regular merchant, cannot refuse service to a customer who indicates he does not intend to pay a utility users tax. Since a utility cannot demand payment of the tax as a condition for rendering service an ordinance which requires it to be more than a billing conduit for the collection and remittance of the tax violates due process of law and places upon a utility and its rate-payers an illegal burden. It has already been held that a utility cannot discontinue service for the nonpayment of the tax. PT&T and PG&E will be ordered to do no more than be a billing and transmittal conduit in connection with the tax and to take no collection agency or court action to enforce collection thereof. PG&E will be ordered to resist any change in its administrative agreement which would require it to do otherwise.

The record indicates that PT&T has a separate line on its regular bills entitled, "Local Tax (If Applicable)". In Packard's situation, PT&T accumulated the amounts of tax which he refused to pay on that line. The accumulated tax was not included on the line entitled, "Balance Due From Last Bill". This procedure is correct and consonant with the views expressed herein. PG&E has a separate line on its Vallejo bills entitled, "City Tax 5%". However, the amount of Vallejo utility users tax which Packard refused to pay was accumulated on a line entitled, "Previous Balance".<sup>3/</sup> This form of billing is

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<sup>3/</sup> The letter of agreement between PG&E and Vallejo provides in part that: "It is anticipated that there will be instances where customers will intentionally withhold payment of the tax. Where a customer has notified PG&E of his refusal to pay the tax or where it is evident that the tax is being excluded from bill payments, the unpaid tax will be included in the balance due shown on our bills for a period not to exceed four billing periods."

improper. It is confusing. It does not tell Packard, or any other customer who intends to withhold paying the tax, whether the "previous balance" relates to utility service or the tax. Furthermore, if both types of arrearages are accumulated in this item and PG&E's automatic billing equipment is not programmed to differentiate between them, Packard or someone similarly situated, could be threatened with discontinuance of service because of accumulated tax arrearages. PG&E will be ordered to revise its billing procedure in accordance with the principles set forth herein.

Where a city may impose a utility users tax and a utility is required to be its collection agent without recompense, various other problems not herein considered may be presented. For example, if the utility's service area is greater than the area within the city, rate-payers outside of the city may be subsidizing the collection of the tax. In such an instance there is a question of the legality of requiring collection without compensating the utility, or, if such procedure is legal, of the Commission in an appropriate rate proceeding relating this expense to the customers in the city. While the Commission may have jurisdiction to determine this point, it is not raised by the pleadings or evidence and we do not consider it herein.

No other points require discussion. The Commission makes the following findings and conclusions.

Findings of Fact

1. On August 4, 1969, the City Council of the City of Vallejo adopted Ordinance No. 909 N.C. which establishes in Vallejo a utility users tax.
2. PT&T is conducting business in Vallejo and is a "telephone corporation" as defined in Ordinance No. 909 N.C.

3. PG&E is conducting business in Vallejo and is an "electrical corporation" and a "gas corporation" as defined in Ordinance No. 909 N.C.

4. Packard is a resident of Vallejo and conducts a business in that city. Packard receives residential and business service in Vallejo from PT&T and PG&E.

5. Packard contests the legality of Ordinance No. 909 N.C. and the legality of PT&T and PG&E collecting the tax from him as an item of his utility bill.

6. The Commission has no jurisdiction herein to determine whether or not, as a matter of general law, Vallejo is authorized to enact a utility users tax or whether the provisions of the Vallejo City Charter were properly followed in the enactment of Ordinance No. 909 N.C.

7. Even if it be assumed that the Commission has jurisdiction to consider the question of whether Ordinance No. 909 N.C. conflicts with the comprehensive scheme of regulating utilities and their charges and service contained in the Public Utilities Code, it should decline to do so herein as a matter of policy. Consideration of the extent of Vallejo's taxing power and the general validity of Ordinance No. 909 N.C. should be by the Superior Court which has jurisdiction to adjudicate all issues in connection therewith.

8. The Commission has jurisdiction herein to consider and rule upon any provision of Ordinance No. 909 N.C. which attempts to vary the rates, relationship or conditions of service between the utility and its customers as provided in the Constitution, Public Utilities Code and lawful orders of this Commission.

9. Packard has a reasonable apprehension that if he continues to contest the legality of Ordinance No. 909 N.C. by refusing to pay the tax included on his PT&T and PG&E bills his utility service may be disconnected for the nonpayment of the tax.

10. Ordinance No. 909 N.C. provides in part that:

"COLLECTION OF TAX

"(a) Every person receiving payment of charges from a service user shall collect the amount of tax imposed by this ordinance from the service user.

"(b) The tax shall be collected insofar as practicable at the same time as and along with the collection of charges made in accordance with the regular billing practice of the service supplier. Except in those cases where a service user pays the full amount of said charges but does not pay any portion of a tax imposed by this ordinance, or where a service user has notified a service supplier that he is refusing to pay a tax imposed by this ordinance which said service supplier is required to collect, if the amount paid by a service user is less than the full amount of the charge and tax which has accrued for the billing period, a proportionate share of both the charge and the tax shall be deemed to have been paid.

"(c) The duty to collect tax from a service user shall commence with the beginning of the first regular billing period applicable to that person which starts on or after the operative date of this ordinance. When a person receives more than one billing, one or more being for different periods than another, the duty to collect shall arise separately for each billing period.

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"FAILURE TO PAY TAX---ADMINISTRATIVE REMEDY. Whenever the Tax Administrator determines that a service user has deliberately withheld the amount of the tax owed by him from the amounts remitted to a service supplier, or that a service user has failed to pay the amount of the tax for a period of four or more billing periods, or whenever the Tax Administrator deems it in the best interest of the City, he may relieve the service supplier of the obligation to collect taxes due under this ordinance from certain named service users for specified billing periods. The Tax Administrator shall notify the service user that he has assumed responsibility to collect the taxes due for the stated periods and demand payment of such taxes. The notice shall be served on the service user by handing it to him personally or by deposit of the notice in the United States mail, postage prepaid thereon, addressed to the service user at the address to which billing was made by the service supplier; or, should the service user have changed his address, to this last known address. If a service user fails to remit the tax to the Tax Administrator within fifteen (15) days from the date of the service of the notice upon him, which shall be the date of mailing if service is not accomplished in person, a penalty of twenty-five (25) percent of the amount of the tax set forth in the notice shall be imposed, but not less than \$5.00. The penalty shall become part of the tax herein required to be paid."



Another provision of Ordinance No. 909 N.C. provides that the Tax Administrator may make administrative agreements in conformance with the general purpose and scope of the ordinance.

11. PG&E has an administrative agreement with Vallejo and PT&T does not. The PG&E agreement provides for referral of a delinquent taxpayer's account back to the city where there has been a refusal to pay the tax for four billing periods.

12. PT&T has a separate line on its regular bills entitled, "Local Tax (If Applicable)". In Packard's situation, PT&T accumulated the amounts of tax which he refused to pay on that line. The accumulated tax was not included on the line entitled, "Balance Due From Last Bill".

13. PG&E has a separate line on its Vallejo bills entitled, "City Tax 5%". However, the amount of Vallejo's utility users tax which Packard refused to pay was accumulated on a line entitled, "Previous Balance". This form of billing is improper.

#### Conclusions of Law

1. The Commission has no jurisdiction herein to determine whether or not, as a matter of general law, Vallejo is authorized to enact a utility users tax or whether the provisions of the Vallejo City Charter were properly followed in the enactment of Ordinance No. 909 N.C.

2. Even if it be assumed that the Commission has jurisdiction to determine whether the comprehensive scheme of regulating utilities, their charges and service, contained in the Public Utilities Code precludes the enactment of Ordinance No. 909 N.C. it should decline to do so. The matter should be left for decision by the Superior Court which has jurisdiction over all issues relating to the legality of the ordinance.

3. The question of whether Public Utilities Code Section 532 precludes Vallejo from requiring collection of the tax by PT&T and PG&E is so inexorably entwined with that of the validity of the tax that the Commission should not pass upon it herein.

4. Assuming, but not deciding, that Vallejo has the power to enact a utility users tax and require the defendants herein to include the tax on their bills, questions raised by the procedures used by PT&T and PG&E in their billing and attempting to collect the tax from their customers are cognate and germane to the regulation of public utilities and the Commission has jurisdiction herein to pass upon such questions.

5. PT&T and PG&E are prohibited by law from discontinuing, or threatening to discontinue the service of a customer who pays for the utility service furnished but refuses to pay the Vallejo utility users tax.

6. To the extent Ordinance No. 909 N.C. requires PT&T and PG&E to be more than a billing conduit for the collection and remittance of the utility users tax it violates due process of law and places an illegal burden upon the defendants and their ratepayers.

7. PT&T and PG&E should be ordered to do no more than be a billing and remittance conduit in connection with Ordinance No. 909 N.C. and to take no collection agency or court action to enforce collection of the tax. PG&E should be ordered to resist any change in its administrative agreement with Vallejo which would require it to do otherwise.

8. PG&E should be ordered to revise its billing practices in connection with Ordinance No. 909 N.C. so that intentionally withheld tax payments are not included on a billing line which also encompasses charges for utility services, unless the amount of withheld tax is separately stated.

O R D E R

IT IS ORDERED that:

1. The Pacific Telephone and Telegraph Company (hereinafter referred to as PT&T) and Pacific Gas and Electric Company (hereinafter referred to as PG&E) shall not disconnect or threaten to disconnect the utility service of Packard or any other customer who pays for such service but who refuses to pay the utility users tax contained in Vallejo Ordinance No. 909 N.C.

2. PT&T and PG&E shall do no more than be a billing and remitting conduit in connection with the utility users tax contained in Vallejo Ordinance No. 909 N.C. and shall take no collection agency or court action against Packard or any other Vallejo customer for failure to pay said tax. PG&E shall resist any change in its administrative agreement with Vallejo which would require it to act contrary to the requirements of this order.

3. Within thirty days after the effective date of this order, PG&E shall revise its billing practices so that where Packard or any other Vallejo customer intentionally withholds utility user tax payments, the accumulated withheld tax payments are either (1) accumulated on the billing line showing the amount of tax due or (2) separately stated as accumulated tax due if included on the billing line entitled, "Previous Balance".

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 6th  
day of OCTOBER, 1970.

[Signature]  
Chairman  
[Signature]  
William J. Quinn  
[Signature]  
James L. Stinson  
Commissioners