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Jacks v. City of Santa Barbara

Court of Appeal, Second District, Division 6, California - February 26, 2015 - Cal.Rptr.3d - 15 Cal. Daily Op. Serv. 1950 - 2015 Daily Journal D.A.R. 2246

Utility consumers, who incurred 1% surcharge on their electricity bills collected by electric company and remitted to city, filed class action complaint against city, seeking order declaring that surcharge was invalid as a tax imposed without voter approval, enjoining city from further collection of surcharge, and requiring city to repay revenues already collected. The Superior Court granted city summary judgment. Consumers appealed.

The Court of Appeal held that surcharge was a tax subject to voter approval, rather than a franchise fee.

Franchise agreement between city and electric company treated surcharge differently from franchise fee, from the perspective of utility consumer there was no functional difference between surcharge and user utility tax, and surcharge was not being collected for grant of right of way, but rather for revenue purposes.

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