

RESOLUTION NO. R-2009-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS SUSPENDING THE PROPOSED WATER RATE/TARIFF CHANGE APPLICATION FILED BY SOUTHERN UTILITIES COMPANY, INC; AND AUTHORIZING THE CITY TO INTERVENE IN RELATED DOCKETS BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY.

WHEREAS, Southern Utilities Company, Inc. (Southern) on May 26, 2009, filed Water Rate/Tariff Change Application with the City of Tyler for an increase in water rates charged by Southern within the City of Tyler and indicated that it filed an identical application with the Texas Commission on Environmental Quality (TCEQ) to increase water rates charges by Southern outside of the City of Tyler; and,

WHEREAS, the City of Tyler is a regulatory authority having a statutory duty to review applications for water rate changes within its city limits and is an affected municipality having the right to initiate and participate in a hearing on an application for a water rate change filed with the TCEQ for water rates outside of its city limits when ratepayers within the city limits may be affected by the water rates established as a result of such proceedings; and,

WHEREAS, the City of Tyler is entitled by the Texas Water Code to select and engage rate consultants, accountants, auditors, attorneys, engineers, or any combination of these experts to conduct investigations, present evidence, advise and represent the City Council of the City of Tyler and assist with litigation on water utility ratemaking proceedings, and the City of Tyler is entitled to be reimbursed for the reasonable costs of the experts' services; and,

WHEREAS, in order to allow sufficient time for consideration of the data filed by Southern, it is the desire of the City Council of the City of Tyler to suspend, pursuant to Section 13.187(d-1) of the Texas Water Code, the proposed effective date of said proposed rate change for ninety (90) days from the effective date stated in Southern's application, as initially filed or hereafter revised, for further study, investigation, presentation of evidence and hearing; and,

WHEREAS, it is the public interest of the City of Tyler to intervene, participate and file evidence in the regulatory proceedings before the TCEQ concerning Southern's application.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:

PART 1: All statements made above are hereby found to be true and correct and are incorporated in their entirety.

PART 2: The City of Tyler, in order to allow for sufficient time to analyze and prepare for hearing and decision on the requested rates, hereby suspends the operation of the proposed tariffs and rate schedules filed by Southern until midnight October 26, 2009, (which is ninety (90) days from the August 1, 2009, effective date contained in the proposed tariffs and rate schedules) and for such additional period of time as may be necessary and authorized by law. During such period of suspension, the rates in force shall be those rates in effect when the suspended tariffs and rate schedules were first filed, which shall continue in force until new rates are set by the City Council.

PART 3: The City Council authorizes the City of Tyler to initiate and intervene in regulatory proceedings before the TCEQ held for the purpose of reviewing Southern's Water Rate/Tariff Change Application.

PART 4: Copies of this Resolution shall be sent to Southern.

**DULY PASSED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS,
THIS THE 8TH DAY OF JULY 2009.**

Barbara Bass

BARBARA BASS, MAYOR
CITY OF TYLER, TEXAS

ATTEST:

Cassandra Brager
CASSANDRA BRAGER
CITY CLERK

APPROVED:



Gary C. Landers
GARY C. LANDERS, CITY ATTORNEY