

EXHIBIT B

**BEFORE THE NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

**Re: Liberty Utilities (EnergyNorth Natural Gas) Corp.
D/B/A Liberty Utilities**

Docket DG 14-380

MOTION TO RESCIND ORDERS AND DISMISS PETITION

Pipe Line Awareness Network for the Northeast, Inc. (“PLAN”) submits this motion pursuant to Puc 203.07, RSA 541:15 and RSA 365:28, seeking an order of the Commission: (1) rescinding Order Nos. 25,822 and 25,845 (collectively, the “Orders”); and (2) dismissing as moot the December 31, 2014 Petition of Liberty Utilities (EnergyNorth Natural Gas Corp.) d/b/a Liberty Utilities (“EnergyNorth”). In support of this motion, PLAN states as follows:

I. Facts

1. On December 31, 2014, EnergyNorth filed with the Commission a “Petition for Approval of a Firm Transportation Agreement With Tennessee Gas Pipeline Company, LLC [“Tennessee”]” (“Petition”). In the Petition, EnergyNorth sought “approval to enter into a 20 year contract with Tennessee pursuant to which the Company would purchase on a firm basis up to 115,000 [dekatherms] per day of capacity.” *Id.* at 1. EnergyNorth requested that the Commission “determine that EnergyNorth’s decision to enter into the proposed arrangement with Tennessee is prudent and consistent with the public interest.” *Id.* at 4.
2. On October 2, 2015, the Commission issued Order No. 25,822, which “approve[d] the Stipulation and Settlement Agreement between [EnergyNorth] and the Commission Staff, and approve[d] a 20-year contract for long-term, firm natural gas pipeline capacity on the proposed Northeast Energy Direct pipeline.” *Id.* at 1. The Commission determined “that EnergyNorth’s proposed acquisition of the capacity contracted for in the Precedent Agreement is prudent and reasonable.” *Id.* at 31. The Commission’s finding was explicitly conditional, stating: “Our

finding that the contracted capacity is prudent, however, assumes that EnergyNorth manages its business and operates in a manner consistent with good utility practice *and its plans outlined in this filing.*” *Id.* (emphasis added).

3. On December 2, 2015, the Commission denied PLAN’s motion for rehearing. *See* Order No. 25,845 (finding that “none of the issues raised by PLAN is grounds for us to rehear or reconsider Order No. 25,822”).

4. On January 4, 2016, PLAN filed its Appeal by Petition with the New Hampshire Supreme Court. On January 21, 2016, EnergyNorth filed with the Court a motion for summary disposition, which PLAN opposed. The Court denied that motion on February 18, 2016, and accepted PLAN’s appeal.

5. On May 2, 2016, EnergyNorth submitted a Notice to the Commission (“Notice”), notifying the Commission that “the Market Path Precedent Agreement has been terminated given that Tennessee Gas Pipeline Company, LLC will not be pursuing the Northeast Energy Direct project.”

6. On June 2, 2016, PLAN filed with the New Hampshire Supreme Court a motion to remand the case to the Commission, pursuant to RSA 541:14 and Sup. Ct. R. 7-A(2). The Court granted that motion on _____, 2016.

II. The Orders Should Be Rescinded.

7. Following remand from the New Hampshire Supreme Court and receipt of the evidence (here, the Notice), “the commission shall consider the same and may alter, modify, amend, or rescind the order or decision appealed from, and shall report its action thereon to the court within said twenty days.” RSA 541:15. “If the commission shall rescind the order appealed from the appeal shall be dismissed[.]” RSA 541:16.

8. Additionally, the Commission “may, after notice and hearing, alter, amend, suspend, annul, set aside, or otherwise modify any order made by it.” RSA 365:28. “RSA 365:28 grants the Commission broad discretion in determining whether to alter its orders[.]” *Pub. Serv. Co. of N.H.*, Order No. 25,213, 2011 N.H. PUC LEXIS 16, *132 (DE 10-195, April 18, 2011). The Commission has in other cases deemed permissible the reconsideration under RSA 365:28 of orders finding actions to be in the public interest, “should circumstances change.” *See Fryeburg Water Co.*, Order No. 25,212, 2011 N.H. PUC LEXIS 14, *21 (DW 09-291, April 5, 2011).

9. The Commission’s prudence determination was expressly premised on the “assum[ption] that EnergyNorth manages its business and operates in a manner consistent with good utility practice *and its plans outlined in this filing.*” Order No. 25,822 at 31. As a result of Tennessee’s termination of the precedent agreement for capacity on the Market Path of the Northeast Energy Direct project, EnergyNorth’s plans and the basis for its filing have fundamentally and irrevocably changed. Consequently, there has been a material change of circumstances warranting the Commission’s rescission of its Orders.

III. The Petition Should Be Deemed Withdrawn, And This Proceeding Dismissed.

9. The Notice is an effective withdrawal by EnergyNorth of its Petition. EnergyNorth no longer is seeking to enter into the precedent agreement for which it sought the Commission’s approval. As a matter of “convenience and discretion,” EnergyNorth’s Petition should be deemed moot because “it no longer presents a justiciable controversy because issues involved have become academic or dead.” *Appeal of Hinsdale Fed. of Teachers*, 133 N.H. 272, 276 (1990) (internal quotations omitted). Accordingly, following the rescission of the Orders, the Commission should dismiss the Petition and close this proceeding.

WHEREFORE, PLAN respectfully requests that the Commission:

- (A) Rescind its Orders Nos. 25,822 and 25,845; AND
- (B) Dismiss as moot EnergyNorth's Petition, and close the proceeding docketed as DG 14-380.

RESPECTFULLY SUBMITTED,

**Pipe Line Awareness Network for the
Northeast, Inc.**

By its attorneys,

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Dated: _____, 2016

Certificate of Service

I hereby certify that on [REDACTED], 2016, pursuant to Puc 203.02 & 203.11, I served an electronic copy of this Motion on each person identified on the Commission's service list for this docket and with the Office of the Consumer Advocate, by delivering it to the email address specified on the commission's service list for the docket.

Richard A. Kanoff