

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission :
On Its Own Motion :
 : **06-0771**
Amendment of Policy Statement and :
Working Agreement Implementing the :
Farmland Preservation Act at 8 Ill. :
Adm. Code 700, Appendix J. :

ORDER

By the Commission:

Background

This proceeding was initiated by a Commission Order entered on November 29, 2006 ("Initiating Order"). The basis for the Order was a requirement of the Farmland Preservation Act ("FP Act") (505 ILCS 75) that the Commission and seven other agencies have a policy statement concerning farmland preservation and a working agreement with the Illinois Department of Agriculture ("Department"). 505 ILCS 75/4; Initiating Order at 1. The statement and agreement comprise 8 Ill. Adm. Code 700, Appendix J, and were last amended in 1987. Initiating Order at 1. A draft amendment to the policy statement and working agreement was attached to the Initiating Order with the directive that the draft be forwarded to the Department as required by the FP Act. Initiating Order Appendix.

The draft was forwarded to the Department. Initiating Order at 2. Subsequently, the policy statement and working agreement were executed by the Commission, through its Executive Director in June, 2008, and by the Department, through its Acting Director, in September, 2008. This docket has been open and inactive since that time.

On July 21, 2015, Commission Staff filed a Verified Motion to Dismiss ("Motion") this proceeding. Attached to the Motion is a copy of the policy statement and working agreement referred to above. No responses were filed to the Motion.

Staff's Motion notes that the Commission's initiating Order contained no directive for further action. According to the FP Act, the policy statement and working agreement are to be revisited and updated every three years (505 ILCS 75/4) but there is no indication in the public record that that has occurred. In fact, the Motion notes that the July 2014 Illinois Register Regulatory Agenda contains an entry indicating that a rulemaking pursuant to the FP Act, specifically updating working agreements and policy statements with the eight (8) affiliated agencies, was expected to begin with first notice expected in July 2014. The January 2015 Illinois Register Regulatory Agenda contains

a similar entry, with the date of expected first notice revised to January 2015. Copies of these Illinois Register entries are attached to the Motion.

Staff indicates that no revisions to the working agreement and policy statement have been made since 2008 by the Commission or any of the other seven (7) agencies required to have a policy statement and working agreement pursuant to the FP Act. 505 ILCS 75/3 and 4. In July, 2015, a spokesperson for the Department told Staff that he anticipates that the Department's rulemaking on this issue will commence in the next three (3) months; however, that estimate was dependent on the Department having the necessary resources to devote to the endeavor.

Because there has been no activity in this docket for seven years, Staff believes it probable that the rulemaking could continue to be put off for months or even years. Further, Staff notes that if and when the rulemaking is initiated, any updates or revisions will be the purview of the Commission generally and the Executive Director of the Commission specifically. An open docket is not necessary to effectuate such updates or revisions.

In short, Staff contends that there is no reason for this docket to remain open. Accordingly, Staff has moved to dismiss this proceeding without prejudice.

Commission Analysis & Conclusion

The Commission has reviewed Staff's Verified Motion and agrees that there are no legal issues in dispute and no reason for this docket to remain open. The Commission finds that this proceeding should be dismissed without prejudice.

Findings and Orderings Paragraph

The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion and finds that:

- (1) the Commission has jurisdiction over this docket;
- (2) the recitals of fact and conclusions of law reached in the prefatory portion of this Order are supported by the record, and are hereby adopted as findings of fact and conclusions of law; and
- (3) this proceeding is hereby dismissed without prejudice because there are no issues in dispute and no action to take in this matter.

IT IS THEREFORE ORDERED that this Docket be dismissed without prejudice.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 18th day of August, 2015.

(SIGNED) BRIEN SHEAHAN

CHAIRMAN