

Docket No: 06-0771
R.O.M.: 8/18/15
Deadline: N/A

MEMORANDUM

TO: The Commission

FROM: Terrance Hilliard, Administrative Law Judge

DATE: July 22, 2015

SUBJECT: Illinois Commerce Commission
On Its Own Motion

Amendment of Policy Statement and Working Agreement
Implementing the Farmland Preservation Act at 8 Ill. Adm.
Code 700.Appendix J.

RECOMMENDATION: Dismiss the Docket without Prejudice.

This proceeding was initiated by a Commission Order entered on November 29, 2006. The basis for the Order was a requirement of the Farmland Preservation Act ("FP Act") 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"). The statement and agreement were last amended in 1987. A draft amendment to the policy statement and working agreement was attached to the Commission's Order with the directive that the draft be forwarded to the Department as required by the FP Act.

The draft was forwarded to the Department. Subsequently, the policy statement and working agreement were executed by the Commission, through its Executive Director, on June 17, 2008, and by the Department, through its Acting Director, on September 11, 2008. This docket has been open and inactive since that time. According to the FP Act, the policy statement and working agreement are to be revisited and updated every three years, but there is no indication in the public record that that has occurred.

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.

Staff's Motion notes that the Commission's Initiating Order contained no further directive for Commission action. 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. 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 within 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.

Accordingly, the Administrative Law Judge recommends that the Commission grant the Motion to Dismiss and dismiss the Docket without prejudice.

TH:fs