**Section 1105.140 Pre-Hearing Memorandum**

a) The parties shall each file written pre-hearing memoranda with the Administrative Law Judge not less than seven days before the hearing. The pre-hearing memoranda shall include:

1) A list of all exhibits to be offered by each party, and a statement that the parties have exchanged these exhibits;

2) Objections to the authenticity of any of the exhibits tendered by all other parties, and the status of any of the exhibits as business records;

3) A list of proposed witnesses, an estimate of the time that will be required for the direct examination of those witnesses, and a summary of the matters to which they will testify;

4) A joint statement of the uncontested material facts.

b) The parties may submit individual or joint statements of the contested material facts or contested issues of law with the required portions of the pre-hearing memoranda.

c) The Administrative Law Judge, on his or her own motion, may waive the filing of the pre-hearing memorandum in whole or in part when he or she finds that such waiver is needed to avoid unnecessary delay of the hearing or an undue burden to a party.

d) Failure by a party to disclose an exhibit or the identity of a witness may be grounds for a motion by an opposing party or by the Administrative Law Judge for exclusion of that exhibit or witness where offered in a party's case-in-chief or, in the alternative, for a continuance to allow the opposing party time to review the exhibit or determine the nature of the witness' testimony and prepare to meet or counter such evidence. Such motions shall be granted only upon a showing that the moving party was surprised and placed at a disadvantage by the failure to disclose in the pre-hearing memorandum. Exhibits and witnesses not listed in the pre-hearing memorandum can be presented for rebuttal or impeachment purposes.

(Source: Amended at 28 Ill. Reg. 8710, effective June 6, 2004)