**Section 1435.15 Settlement in Lieu of Formal Enforcement Proceeding**

Prior to the institution of formal enforcement proceedings before the Illinois Commerce Commission ("Commission") a respondent shall be given the opportunity to settle, at an informal staff level, any controversy regarding the respondent's alleged illegal activity under the Illinois Commercial Transportation Law ("Law") (Ill. Rev. Stat. 1987, ch. 95½, pars. 18c-1101 et seq.).

a) The Notice of Alleged Violation and Opportunity to Settle ("NAVOS") setting forth the alleged violations of the Law or rules of the Commission shall be served on the respondent and shall specify the procedure for the respondent to exercise his option to settle. Included will be instructions to telephone or write to the specific Commission staff member assigned to the case to request and schedule a settlement conference if the respondent chooses to exercise the settlement option. The respondent shall have 20 days from the date of service to exercise his option to settle.

b) Monetary settlements specified in the NAVOS shall be based upon the minimum and maximum amounts set forth in Section 18c-1704(2) of the Law.

c) An amount less than the minimum established in the NAVOS may be agreed upon between the staff of the Commission and the respondent during informal settlement discussions. This lesser amount shall be incorporated in a stipulated settlement agreement which shall be presented to the Commission for approval or rejection pursuant to the provisions of Section 18c-1705 of the Law.

d) Settlement amounts shall be determined upon consideration of the respondent's past compliance history, whether the violation(s) was the result of willful conduct or an incorrect, but colorable interpretation of the Law (e.g., misinterpretation of the commodity authority), his cooperation with authorities in the resolution of the dispute, and his willingness to comply with the Law and Commission rules, the type of violation, the amount of revenue realized from the unlawful activities, and the number of violations.

e) If a settlement agreement is not reached, the matter will be set for hearing before a Commission Hearing Examiner (See 83 Ill. Adm. Code 200).

f) The respondent's right to a hearing and his position at hearing will not be prejudiced in any way if settlement is not reached.

(Source: Added at 13 Ill. Reg. 18859, effective November 15, 1989)