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INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

October 14, 2009

Kevin O'Toole, Executive Director
Pennsylvania Gaming Control Board
Strawberry Square
Verizon Tower, 5th Floor
Harrisburg, PA 17106-9060

Re: Regulation #125-100 (IRRC #2780)
Pennsylvania Gaming Control Board
Vendors Revisions

Dear Mr. O'Toole:

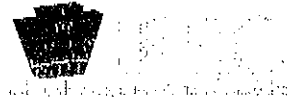
Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at www.lrrc.state.pa.us. If you would like to discuss them, please contact me.

Sincerely,

FOR Kim Kaufman
Executive Director
wbg
Enclosure

cc: Honorable Jane M. Earll, Majority Chairman, Senate Community, Economic and
Recreational Development Committee
Honorable Wayne D. Fontana, Minority Chairman, Senate Community, Economic and
Recreational Development Committee
Honorable Dante Santoni, Jr., Majority Chairman, House Gaming Oversight
Honorable Curt Schroder, Minority Chairman, House Gaming Oversight

Comments of the Independent Regulatory Review Commission**Pennsylvania Gaming Control Board****Regulation #125-100 (IRRC #2780)****Vendor Revisions****October 14, 2009**

We submit for your consideration the following comments on the proposed rulemaking published in the August 15, 2009 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Pennsylvania Gaming Control Board (Board) to respond to all comments received from us or any other source.

1. Section 435a.9b. Vendor employee temporary access credentials. - Reasonableness.

12 days in a 12-month period

Mohegan Sun at Pocono Downs (MSPD) and Greenwood Gaming and Entertainment, Inc. (GGE) believe the limitation to "12 days in a 12-month period" in Subsection (c) is overly restrictive for construction company vendors. They state that work interruptions and scheduling problems could easily require more than 12 days in a year. Their comments suggest that the Board's compliance representatives could address the issue on a case by case basis or that the regulation should allow a more reasonable length of time, such as 30 days in a 12-month period. The Board should explain why 12 days in a 12-month period is reasonable.

2. Section 437a.1. General vendor requirements. - Need; Reasonableness; Adverse effects on competition.

24 hours within a 72-hour period in any 3-month period

The exception to registration in Subparagraph (a)(2)(i) states, "The employees will be on the gaming floor for less than 24 hours within a 72-hour period no more than once in any consecutive 3-month period." This is a complicated series of conditions that must be met or anticipated. Since Subparagraphs (ii)

and (iii) require the employee to sign-in with the security department and have written approval from the Board, we question the need for all of the time limitations in Subparagraph (i). For example, why is the phrase "within a 72-hour period" needed in addition to the rest of Subparagraph (i) and Subparagraphs (ii) and (iii)? The Board should explain the need for all of the time restrictions in Subparagraph (i).

Publicly-traded vendors

NCR Corporation (NCR) believes that Paragraph (d)(15) would not treat all publicly-traded vendors alike. Paragraph (15) exempts vendors from certification or registration if they have no employees who must obtain occupation permits or nongaming employee registration from the Board. However, a vendor with even one such employee must apply for certification or registration even if the employee's duties are unrelated to gaming. NCR suggested revisions to Subsection (d) and to Section 437a.7 to address this inequity. The Board should explain how Paragraph (d)(15) would treat all publicly-traded vendors the same.

3. Section 437a.2. Vendor registration applications. – Clarity.

Power to control or influence

Subparagraph (b)(4)(iii) requires fingerprints of "each individual who has the power to control or influence the affairs of the registered vendor applicant." This identical phrase also appears in Paragraph 437a.4(a)(3). We recommend deleting both provisions because they do not clearly identify the persons who must be fingerprinted or submit disclosure forms. Alternatively, the Board should define the phrase "power to control or influence" or amend these provisions to clearly establish who must be fingerprinted or submit disclosure forms.

4. Section 437a.7. Registered and certified vendor responsibilities. – Need; Reasonableness.

Registered vendors

MSPD questioned the need to include registered vendors. MSPD explains that several of the amendments will significantly expand filing requirements and costs imposed on registered vendors. The Preamble states that Section 437a.7 is being revised to include registered vendors, but does not provide a reason for the amendments. The Board should explain the need for the amendments under Subsections (b), (c), (c)(4), (d) and (e), the costs imposed by the amendments, and how the benefits outweigh the costs imposed.

5. Section 437a.9. Permission to conduct business prior to certification or registration. – Clarity

Rulemaking #125-97/IRRC #2748

At our August 20, 2009 public meeting, this Commission approved the Board's final regulation #125-97 (IRRC #2748) which also amended Section 437a.9. GGE is concerned that Subsection (a) does not address the "winding up period" discussed in rulemaking #125-97. When the Board submits final-form regulation #125-100, the Board should explain how it is consistent with regulation #125-97.

6. Section 437a.11. Slot machine applicants' and licensees' duty to investigate. – Reasonableness; Clarity.

Actual knowledge

MSPD urges the Board to provide further clarification in Subsection (c) to limit the duty to inform the Board of violations about which the applicants and licensees have actual knowledge. MSPD provided suggested language to remedy its concern. We recommend that the Board consider including this clarification or explain why it is not needed.