Comments of the Independent Regulatory Review Commission

Pennsylvania Gaming Control Board Regulation #125-152 (IRRC #2898)

Table Game Rules for Four Card Poker, Let It Ride Poker, Three Card Poker and Ultimate Texas Hold 'Em Poker

September 14, 2011

We submit for your consideration the following comments on the proposed rulemaking published in the July 16, 2011 *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. Adverse effects on prices, productivity or competition.

Section 25 of the Regulatory Analysis Form asks how this regulation compares with those of other states and how it will affect Pennsylvania's ability to compete with other states. The Board's response to these questions is that the regulations are consistent with the standards throughout the gaming industry and should not affect Pennsylvania's ability to compete with other states.

While we have no reason to doubt the Board's response to these questions, we seek more information on the house advantage that these regulations establish for each of the table games contained in this rulemaking. We ask the Board to provide this information and to compare it to other gaming jurisdictions, including New Jersey. This information will assist this Commission in determining if the regulation is in the public interest.

2. Implementation procedures.

This proposed rulemaking includes references to regulations that have not been promulgated. The sections of this rulemaking that include the references are:

- § 641a.2(c)
- § 641a.4(e)
- § 641a.5(a)
- § 641a.7(d)(4)
- § 641a.7(e)
- § 641a.12(c)
- § 641a.12(d)(1)
- § 641a.12(d)(3)
- § 641a.12(d)(5)
- § 643a.4(e)
- § 643a.5(a)
- § 643a.7(e)
- § 643a.7(f)
- § 643a.7(h)
- § 643a.12(a)
- § 643a.12(b)
- § 643a.12(c)
- § 643a.12(d)
- § 649a.2(c)
- § 649a.4(e)
- § 649a.5(a)

- § 649a.7(d)(4)
- § 649a.7 (d)(5)
- § 649a.7(f)
- § 649a.12(b)
- § 649a.12(c)
- § 649a.12(d)
- § 649a.12(e)(1)
- § 649a.12(e)(3)
- § 649a.12(f)
- § 653a.2(c)
- § 653a.4(e)
- § 653.a.5(a)
- § 653a.7(d)(3)
- § 653a.12(c)
- § 653a.12(d)(3)
- § 653a.12(e)

It is our understanding that the references are to other Board table game regulations that will be promulgated in the near future. We are concerned that this rulemaking will be finalized before the other regulations are finalized. If this occurs, it could lead to a confusing regulatory environment for those that must comply with the rulemaking. In the Preamble to the final version of this rulemaking, we ask the Board to explain its plan for promulgating all of these regulations in a manner that ensures all references are valid.

3. Clarity and lack of ambiguity.

Throughout this proposed rulemaking, licensed facilities that hold table game operation certificates (certificate holders) are required to obtain certain approvals from the Board's Bureau of Gaming Operations, the Bureau of Gaming Laboratory Operations, or the Bureau of Casino Compliance. For example, Section 641a.2(b) states, in part, the following: "The layout for a Four Card Poker table shall be approved by the Bureau of Gaming Operations and contain, at a minimum: . . . " We are concerned that the proposed rulemaking does not include the procedures for obtaining the necessary approvals. To assist the regulated community in understanding how to submit the requests for certain approvals, we suggest that the final-form regulation include the procedures or appropriate cross-references to where the procedures can be found. We have identified the following sections that contain references to approvals:

- § 641a.2(b)
- § 641a.2(d)
- § 641a.5(f)(2)(ii)
- § 641a.5(g)
- § 641a.8(a)
- § 643a.2 (b)
- § 643a.2(c)
- § 643a.2(d)
- § 643a.5(f)(2)(ii)
- § 643a.5(g)
- § 643a.8(a)
- § 649a.2(b)
- § 649a.2(d)
- § 649a.5(f)(2)(ii)
- § 649a.5(g)
- § 649a.8(a)
- § 653a.2(b)
- § 653a.2(d)
- § 653a.5(f)(2)(ii)
- § 653a.5(g)
- § 653a.8(a)

4. Section 641a.9. Procedures for dealing the cards from the hand. – Reasonableness.

Subsection (a)(1) requires an automated shuffling device to be used for the game of Four Card Poker if the cards are dealt from the dealer's hand. A commentator believes that the safeguards and procedures contained in § 641a.5, relating to shuffle and cut of the cards, are sufficient to protect the integrity of gaming and suggests that rulemaking be amended to allow certificate holders the option of using an automated shuffling device or manually shuffling the cards. The commentator notes that this flexibility would assist in instances when the automated shuffling device becomes inoperable. We suggest that the Board amend the final-form rulemaking accordingly, or explain why doing so would compromise the integrity of gaming. We note that similar language can be found in §§ 643a.9(a)(1), 649a.9(a)(1) and 653a.9(a)(1), for the games of Let it Ride Poker, Three Card Poker and Ultimate Texas Hold 'Em Poker respectively.

5. Section 641a.11. Procedures for completion of each round of play. – Reasonableness.

Subsection (d) requires a dealer to leave all cards on the table until all wagers have been settled for the game of Four Card Poker. A commentator has noted leaving the cards on the table in this manner decreases the integrity of gaming and has suggested that this section be amended to allow a dealer to remove the cards of each player immediately after the dealer has settled the wagers for that player. In the Preamble to the final-form regulation, we ask the Board to explain how the language in the proposed rulemaking adequately protects the integrity of gaming compared to the suggestion of the commentator. We note that similar language can be found in §§ 643a.11(g), 649a.11(d) and 653a.11(k), for the games of Let it Ride Poker, Three Card Poker and Ultimate Texas Hold 'Em Poker respectively.