

# **Comments of the Independent Regulatory Review Commission**

**on**

## **Pennsylvania Gaming Control Board Regulation #125-53 (IRRC #2588)**

### **General Rules of Practice**

**March 7, 2007**

We submit for your consideration the following comments on the proposed rulemaking published in the January 6, 2007 *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 491a.3. Office of the Clerk. Clarity.**

Section 491a.3(a)(2) allows electronic filing of documents and pleadings “by electronic means, only under a policy established by the Board.” The provision is vague, and consequently does not impart any useful information to members of the regulated community or their legal representatives. Electronic filing is an efficient and economical method of filing and one which we encourage the Board to implement. However, the Board’s policy with regard to electronic filing should be elaborated in the regulation.

#### **2. Section 491a.5. Service by the Board. Clarity.**

Likewise, Section 491a.5(c) provides that proof of service shall be filed in a manner and form prescribed by the Board. That information should also be contained in the regulation.

#### **3. Section 491a.7. Presiding officers. Clarity.**

Section 491a.7(b)(1) authorizes the Board and presiding officers to schedule, recess, reconvene and adjourn hearings, “unless otherwise provided by the Board, as provided in 494.1a(a) (relating to generally).” Section 494.1a(a) is a temporary regulation, which will no longer be effective as of July 5, 2007. Therefore, the quoted language should be deleted and a period placed after “hearing.” If and when section 494.1a(a) is promulgated, Section 491a.7(b)(1) can be amended to include the cross-reference.

#### **4. Section 491a.8. Hearings generally. Clarity; Implementation procedures.**

Section 491a.8(c) provides that hearings will be documentary “when constitutionally permissible unless otherwise designated by the Board or presiding officer....” The regulation should include examples of when a documentary hearing may not be constitutionally permissible. In the alternative, the Board should list the criteria it will apply to determine whether a documentary hearing will not be constitutionally permissible.