



MICHAEL & CARROLL

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

RECEIVED

MAY 15 2006

REPLY TO:

May 11, 2006

VIA OVERNIGHT MAIL

Pennsylvania Gaming Control Board
Office of Communications
P.O. Box 69060
Harrisburg, PA 17106-9060

Attention: Public Comment

Re: Comments to Draft Temporary Regulations
Section 441.19

Dear Sir/Madam:

Please accept these comments on behalf of Pocono Manor Investors regarding the above captioned proposed hearing regulations. These comments are not in the nature of objections to any of the proposals but, rather, are intended as requests for clarification of the present language in order to fully understand its intent and impact.

1. Section (c)(2): Is the order of statutory sections listed here intended to reflect the order of hearings? In other words, after the Conditional Category 1 hearings, will all Category 1 hearings be conducted, followed by Category 2 and then Category 3 or will the non-conditional categories be mixed?
2. Section (h)(14): How is it contemplated that "areas of deficiency" as referenced in this section will be communicated to the applicants and in what time frame? Will there be advance notice? Will these include character issues? Will any such reports be public and available to all applicants?

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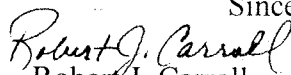
Pennsylvania Gaming Control Board

Page 2

3. Section (o): Is the process provided for in this Section intended to be in lieu of intervention by one applicant into the hearing of another applicant, or will applicants be permitted to intervene in other applicants' hearings in addition to providing "comparative" evidence in their own hearings under this Section?
4. Section (o)(3): Is the reference here to "paragraph (1)" intentional or should that reference be to paragraph (2) instead? In addition, when a "reply notice" is filed under this section, does it become part of the record of the applicant against which it is directed?
5. Section (q): In addition to questioning witnesses offered by the applicant, will the Board be able to call its own witnesses?
6. Section (w): Is it presently contemplated how the final decision and order will be structured? Will there be a single decision and order for each Category or will there be separate decisions and orders regarding each applicant? The difference here may affect appellate rights in that a single order could likely be appealed by any of the applicants impacted by it, whereas that may not be the case if the orders are issued individually. This also may have an impact on whether or not intervention would be required in order to protect all necessary appellate rights.
7. There is no provision for subpoena power. Will any be provided?
8. In addition to oral presentation in Section (v), will there be oral summation at the hearing? Will there be opening statements?
9. These rules contemplate that the hearing will be conducted by the Board. There is no reference to a Presiding Officer. Will that be the Chair? If so, will the Chair then be authorized to render all evidentiary and pre-hearing rulings, or will that require full Board vote will all of the majority configurations otherwise part of the voting requirements in the Act?

Again, these questions are raised for clarification purposes. If the Board deems it advisable, it may wish to revise the language provided here in order to provide the necessary guidance in the regulations themselves. Thank you very much.

Sincerely,


Robert J. Carroll


Guy S. Michael

DRAFT REGULATION COMMENT FORM**RECEIVED**

MAY 16 2006

Please complete all of the fields below before printing:

DATE	05/15/06	ADDRESS 1
SECTION # OR SUBJECT	Proposed Chapters 441, 461, 465 and 466	ADDRESS 2
FIRST NAME	Mark	CITY
LAST NAME	Stewart	STATE
ORGANIZATION NAME	Wolf, Block, Schorr and Solis- Cohen LLP	ZIP CODE
EMAIL ADDRESS		COUNTY
		TELEPHONE

COMMENTS

See attached comments submitted on behalf of Isle of Capri Casinos and IOC Pittsburgh.

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board
P. O. Box 69060
Harrisburg, PA 17106-9060
Attn: Public Comment

Mark S. Stewart

May 15, 2006

Pennsylvania Gaming Control Board
P.O. Box 69060
Harrisburg, PA 17106-9060
ATTN: Public Comment

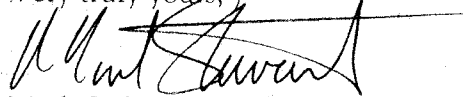
Re: Comments to Draft Regulations Under Title 58 of the PA
Code, Chapters 441, 461, 465 and 466

Dear Sir/Madam:

On behalf of IOC Pittsburgh, Inc. and Isle of Capri Casinos, Inc., we are filing the enclosed comments to temporary regulations under title 58 of the Pa. Code, Chapters 441, 461, 465 and 466.

Please direct any questions or comments to me.

Very truly yours,



Mark S. Stewart

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

MSS/jls

Enclosures

cc: Elizabeth Behan, Esq. (w/encl.)
Tami Bogutz Steinberg, Esq. (w/encl.)

**BEFORE THE
PENNSYLVANIA GAMING CONTROL BOARD**

In re: Promulgation of Temporary :
Regulations Under Title 58 of the :
Pennsylvania Code, Chapters 441, 461, 465 :
and 466 :

**IOC PITTSBURGH AND ISLE OF CAPRI CASINOS'
COMMENTS TO DRAFT REGULATIONS**

I. INTRODUCTION

IOC Pittsburgh, Inc. and Isle of Capri Casinos, Inc. (collectively, "Isle of Capri" or "Isle") respectfully submit these comments to the Pennsylvania Gaming Control Board ("PGCB" or "Board") in regard to its publication of draft regulations in the above-captioned Chapters of Title 58 on May 4, 2006. The regulations are intended to implement the provisions of the Pennsylvania Race Horse Development and Gaming Act (the "Act"), 4 Pa. C.S. § 1101 *et seq.*, establish a licensing hearing process for slot machine licensees, and address issues regarding slot machine testing, approval and control, accounting and internal control requirements, and slot computer systems.

The Isle of Capri appreciates the opportunity to submit these comments to the PGCB. Creating a fair and adequate hearing process for applicants for slot machine licensure is essential to ensuring each applicant's right to an opportunity to be heard and the public's confidence in the licensure process. The Board should be commended for proposing a procedural framework that clearly furthers those goals. Likewise, the Board's regulations establishing the various operational standards and requirements for slot machines and systems are well-founded. Nonetheless, the draft regulations would benefit from certain clarifications and adjustments. Isle of Capri Casinos, Inc., through its licensed gaming activities in other jurisdictions, has extensive

experience in these technical and operational areas upon which its comments are based. The Isle respectfully submits that the modifications detailed herein will contribute positively to the regulations and urges the Board to incorporate its comments into its final product.

II. COMMENTS

A. Section 441.19(d)

Section 441.19(d) states that "[t]he Board will allot each applicant a specified time for its presentation." The Isle recognizes the Board's desire not to specify the amount of time allotted in the regulations. However, issues of time are essential to the process and an applicant's preparation for the hearing and decisions about the content and manner of its presentation to the Board. Will each applicant (or at least each applicant in a competitive grouping) have the same amount of time? What will that amount of time be? How will questions by the Board or its Chief Enforcement Counsel impact the allotted time? Assuming these issues are not addressed in the regulations, the Board should establish a prehearing conference process, to occur sufficiently before the deadline for the applicants' memorandum, at which these types of issues could be resolved.

Additionally, Section 441.19(d) should direct that the order of applicants' presentations within a competitive grouping will be determined randomly. Applicants whose hearings will be after their competitors will have a significant advantage and the ability to adjust (within the confines of Section 441.19(n)) their presentations to account for issues or information raised at earlier hearings. The significance of this advantage makes random selection – and not alphabetical ordering – necessary.

B. Section 441.19(m)

This subsection allows an applicant to designate reports and exhibits as confidential, and to seek the opportunity to present such confidential information to the Board in closed

deliberations. The provision is generally acceptable, but in competitive Category 2 subsets there is an additional need to ensure that the applicants are on an equal footing, and that the confidentiality provisions have not been erroneously or improperly employed in an attempt to thwart the comparison process in Section 441.19(o). This is another issue that could be addressed through a prehearing conference procedure, whereby the applicants could exchange a list of the type of information they plan to designate as confidential and could discuss with a hearing officer whether that confidentiality had already been waived or was otherwise inappropriate.

Further, the Isle suggests that the Board adopt a process for handling proprietary information, employed by other Commonwealth agencies, under which counsel for the competitive Category 2 applicants, and their experts, would have access to confidential information and the ability to present comparisons regarding it to the Board (in the closed deliberations specified in subsection (o)(4)) upon signing a proprietary order and committing to adhere to the rules and requirements for the safeguarding of the information set forth in that order.

C. Section 441.19(o)

The comparative process established by this subsection is vital to both the applicants' full and fair opportunity to be heard and the Board's ability to make the licensure decisions it is required to make under the Act. Because of its importance, the applicants' opportunity to make such comparisons must be meaningful, which will depend primarily on two factors: (1) access to information; and (2) time. The Isle's comment on subsection (m) and ensuring an equal footing among applicants as to confidentiality is one example of the need for access to information. However, more generally, the applicants in a competitive grouping need more access to each other's applications in order to be able to conduct necessary comparisons. As discovery is not

envisioned by the regulations, full access to all application materials (except those precluded by Section 1206 of the Act) is a reasonable compromise assuming the proprietary information process suggested above is established.

Turning to the time factor, the amount of time permitted for filing the comparison notice in Section 441.19(o)(2) and the reply notice in subsection (o)(3) are simply inadequate.

Assuming that the vast majority of the information on which an applicant can make a comparison will come from the memorandum required by subsection (j), applicants will have a mere 10 days to review the opposing applicants' memorandums (which are expected to be voluminous), identify comparative issues, potentially find and employ various experts but, at a minimum, have already-retained experts review the memorandums' data and develop their analyses and reports and/or anticipated testimony, and complete and finalize the filing with the Board. A similar level of activity is required to occur within 10 short days for the reply notice. Isle of Capri strongly urges the Board to extend these time periods.

Beyond these overarching concerns, the Isle notes the following:

- In subsection (o)(3), the three references to "paragraph (1)" should be to paragraph (2); and
- Subsection (o)(2)(iii) should be clarified as to its reference to Section 441.19(j) so as to make clear that any documentary evidence to be used in a comparison must be filed with the comparison notice.

D. Section 441.19(t)

Section 441.19(t) permits applicants to file a brief within 10 days of "the completion of the evidentiary record with respect to all applications within its category." The Isle seeks confirmation that the brief is due after the closing of the record for all Category 2 applications, and not the competitive subsets (Pittsburgh, Philadelphia, at-large) of applications. Additionally, again, Isle of Capri urges the Board to afford applicants more time to prepare their briefs.

Assuming the applicants can obtain an expedited transcript, they will likely have eight days to review a voluminous record and prepare their briefs. Also, if the 10 days runs from the closing of the record of the entire category of applicants, those applicants with hearings later in time will be penalized with an effectively shorter period of time to complete their briefs.

E. Section 441.19(v)

This provision states that applicants will have the opportunity to engage in oral argument before the Board. Like Section 441.19(d), additional detail about the oral argument in advance of the process would be helpful to applicants, particularly in regard to competitive subsets of Category 2 applications. For instance, will the oral arguments be with all applicant in a subset? Will applicants be able to reserve time for rebuttal? Or will the applicants' arguments be separate, unilateral arguments directly with the Board? If not addressed in the regulations, these issues should be addressed in a prehearing conference.

F. Section 441.19(w)

The Isle respectfully suggests that the Board clarify this subsection, concerning its decision on the applications, in two important respects. First, the regulation could be read to suggest that the Board intends to issue one final order addressing all applications in all categories. Such an approach is not mandated by Section 1301 of the Act, and could lead to unnecessary delays impacting all successful applicants upon an appeal being filed by one or a few applicants.

Second, the Board should clarify that, upon issuing its decision as to the applications in a competitive subset of Category 2 applications, it will consolidate the dockets for those respective applicants. If the Board does not declare its intent to consolidate such dockets in advance of the hearings, the affected applicants will be forced to file defensive interventions in order to protect their appeal rights. In competitive subsets of Category 2 applications, the losing applicants will

need to appeal both the denial of their applications and the granting of the successful application. Absent consolidation prior to the issuance of the Board's order, the losing applicants will not have access to the record in the successful applicant's proceeding. Absent, a declaration by the Board in advance of its intent to consolidate, the parties will have no option but to seek to intervene. Isle of Capri recognizes the draft regulations' attempt to avoid such a scenario with the comparison process in subsection (o), and believes the approach to be generally reasonable. However, the approach will be undermined if the consolidation issue is not clarified.

G. Section 441.19(z)(6)

This subsection addresses the ability of intervenors to participate in an applicant's hearing. The regulation should require that intervenors who participate through the submission of written statements must provide the statements to the applicant sufficiently in advance of the hearing so as to enable the applicant to respond. Additionally, in competitive Category 2 subsets, the intervenor's materials and the applicant's response thereto should be filed in sufficient time for competitors to review the materials and respond if necessary or appropriate. For instance, an intervenor's statements could intentionally or unintentionally bolster an applicant's presentation and/or be utilized by an applicant to submit new or additional information not provided in the applicant's memorandum which the competitor applicants would then have no way of addressing in comparison filings or testimony.

Also, the regulation should make clear that an applicant's response to an intervenor, and any additional comparison materials from other applicants that such exchange may prompt, are not limited by Section 441.19(n)'s evidentiary limitation. In the alternative, the intervenor should be required to submit its written statement with its petition to intervene, and the applicant's response thereto should be included with its memorandum.

H. Section 461.4(c)

This subsection indicates that slot machines must be capable of being activated or disabled by the central control computer system. The Isle seeks reconsideration of this requirement as, to its knowledge, current Class III slot monitoring systems do not include this capability.

I. Section 461.7(t)

This subsection requires that any seating provided by a licensee in conjunction with slot play shall be fixed and stationary in nature, and must be installed in a manner that precludes its ready removal by a patron. This regulation is at odds with Isle of Capri Casinos' experience and practice at its facilities in other jurisdictions, and appears to excessively impinge on the licensee's ability to manage its own casino. Isle of Capri Casinos' experience is that patrons prefer non-stationary seating, and the Isle urges the Board to leave this choice to each licensee. The Isle also notes that stationary seating, with its potential required removal, could impede the work of slots technicians and drop teams. Particularly in regard to the drop teams, which collect the money from the machines, it is important to have as seamless a process as possible to facilitate the monitoring of the teams and prevention of theft. The potential that fixed seating would need to be removed from each machine would result in an unnecessary distraction and burden.

J. Section 461.8(a) and (e)

The Isle seeks clarification that Section 461.8, involving gaming vouchers, is directed at customer bonus accounts, and does not include generic ticket-ins or coupons. The internal controls requirements related to such vouchers set forth in subsection (e), which require the establishment of unique accounts and passwords, suggests that the provision is directed at such customer bonus accounts. However, the description of a gaming voucher in subsection (a) is

open to a broader interpretation that could include generic tickets and coupons. If such generic tickets and coupons are intended to be regulated by Section 461.8, then the Board, through the account and password requirements in subsection (e), will have effectively eliminated the feasibility of using such devices. The use of generic tickets and coupons is widespread in the gaming industry. Isle of Capri Casinos prints and distributes literally thousands of such tickets each day. The Board should clarify that such generic devices are not within the scope of Section 461.8.

K. ^{§ (k)(2)} Section 461.1(2)

This subsection states that, on a weekly basis, a slot accounting department representative must “compare appropriate slot machine meter readings to the number and value of issued and redeemed gaming vouchers per the gaming voucher system.” The Isle asks the Board to clarify that such a comparison may be conducted using meter reading reports and data from the licensee’s slot monitoring system and does not require a manual meter reading. A manual meter reading requirement would entail a significant burden on the licensee without any commensurate benefit.

L. Section 461.10(g)

Subsections (g)(2)-(4) direct that various keys associated with gaming voucher and coupon redemption machines or kiosks be controlled by the slot operations department. Isle of Capri Casinos’ experience is that such keys are often controlled by other departments, such as the cage, security or marketing departments. This experience has not revealed any decrease in security or control as a result of the keys not being controlled by the slot operations department, and the Isle respectfully suggests that the proposed regulation unnecessarily interferes with the licensee’s management of its casino.

M. Section 461.12(j)(3)

This subsection sets forth the conditions under which a licensee may remove one or more wide area progressive linked slot machines from the gaming floor. The Isle suggests that subsection (j)(3)(i), involving wide areas progressive systems offered at multiple licensed facilities, should be clarified. The key factor when removing such a machine is to ensure that linkage is maintained with at least one other machine on the system. This goal is recognized and furthered by subsection (j)(3)(ii), which requires the maintenance of at least two linked slot machines when the progressive jackpot is only offered at a single licensed facility. However, the requirement in subsection (j)(3)(i) as to progressive jackpots offered at multiple licensed facilities far exceeds the linkage goal and essentially requires all facilities at which the wide area progressive system is offered to retain one linked slot machine even if the other licensed facilities on the system continue to offer numerous linked slot machines. Such a requirement would be unnecessary, and the Isle presumes is not the intent of subsection (j)(3)(i). The subsection should be clarified to require the licensee to verify that linked slot machines remain at other facilities and, if that is not the case, retain one linked machine.

N. Section 461.15(a)

Section 461.15(a) describes a casino management system as a system “used to collect, monitor, interpret, analyze, report and audit data with regard to activity at slot machines.” In Isle of Capri Casinos’ experience, functions like monitoring, analyzing, reporting and auditing data of slot machine activity are functions performed by its slot monitoring system. The slot monitoring system then reports that data to the casino management system, which utilizes the information for a variety of functions, including the handling of player accounts, and also services the cage and count rooms. The Isle seeks clarification that such functions may be, but are not required to be, performed by a casino management system.

O. Section 461.18(g)

This subsection requires licensees to provide patrons participating in a cashless funds transfer system with a monthly statement of account. The regulation suggests that the monthly statement must be a written statement, as the written authorization of the patron is required to provide the statement electronically. The Isle respectfully submits that this requirement is unnecessary, will result in a substantial administrative burden to licensees, and should be stricken. In Isle of Capri Casinos' experience, all patrons participating in such systems are provided with an account card which, when placed in any slot machine with the entry of the password, enables them to see available points or credits. Accordingly, the requirement in subsection (g) is unnecessary. Patrons can receive all of the desired information at anytime, in real time, simply by using their account card. Further, the requirement will result in a significant burden to licensees, both in terms of administering the account statement process and in responding to inquiries and disputes regarding the same. For all of these reasons, the provision should be eliminated.

P. Section 461.18(h)

This subsection requires the licensee to notice the Board of any adjustment to the amount of any credit transferred to a slot machine via the cashless fund transfer system "on or before the date of adjustment." While the circumstances prompting such an adjustment occur fairly rarely, those circumstances often require immediate action by the licensee, and the Isle suggests that the Board afford licensees slightly more time in which to report the adjustment to the Board. A requirement to provide notice to the Board within 48 hours of an adjustment would seem reasonable.

Q. Section 465.12(b)(2)

This subsection requires a slot machine licensee's internal controls to include an internal audit department supervised by a person located at the licensed facility. The Isle respectfully suggests that the provision be modified to enable licensees to utilize a corporate internal audit department at the licensee's parent company. Isle of Capri Casinos experience is that it does not have an internal audit department at each of its licensed locations, but rather utilizes a central corporate department with on-site auditors that are responsible for one or more facility but are not located at any one casino. This internal control process has been deemed acceptable in all other jurisdictions in which Isle of Capri Casinos operates, and it asks the Board to allow licensees the same flexibility in Pennsylvania.

R. Section 465.12(b)(5)(iv)

This subsection requires a licensee's internal controls to lodge in the security department the responsibility for controlling and maintaining a system for the issuance of access badges to employees and temporary access credentials to other persons. The Isle asks the Board to permit the bifurcation of responsibility for the access badges from the temporary credentials. In Isle of Capri Casinos' experience, the human relations department oversees the issuance of access badges for employees, as that department is involved in the employees' securing of a gaming license or permit from the Board. Temporary access credentials, however, are controlled by the security department. The Isle asks the Board to modify the provision to allow it the flexibility needed to utilize its existing system for issuing access badges to employees.

S. Section 465.12(b)(5)(vi)

This subsection requires a licensee's security department to be responsible for the identification and removal of any person who is required to be excluded under the Act or is self-excluded from gaming. Removal of such persons is clearly a responsibility for the security

department. However, persons who are self-excluded, in particular, are often identified by the cage or the casino management system. The Isle seeks clarification that the provision does not lodge identification exclusively with the security department.

T. Section 465.12(c)

This subsection addresses the chain of command for the supervisors of the internal audit and surveillance and the Isle seeks both clarification and modification to its terms. First, the bifurcation of reporting along issue lines in subsections (c)(1) and (2) is vague and could lead to confusion in trying to determine issues involving “administrative matters and daily operations” as opposed to those involving “policy, purpose, responsibility and authority.” Presumably, the intent of this regulation is not to prohibit the reporting of administrative and daily operations matters to the entities identified in subsection (c)(2)(i)-(iv), but rather to limit the circumstances where reporting to such entities is mandated. Nonetheless, the criteria of the bifurcation is ambiguous.

Second, the Isle requests that subsection (c)(2)(iii) be modified to permit reports to corporate surveillance or internal audit executives, not just the senior executive, with the holding company who directly *or indirectly* report to the independent audit committee or other appropriate committee of the board of directors of the holding company. For example, the internal audit personnel assigned to Isle of Capri Casinos’ licensed facilities report to a regional manager with the holding company who then reports to the Vice President of Internal Auditing. The Vice President reports directly to the independent audit committee of Isle of Capri Casinos’ board of directors.

U. Section 465.12(f)

This subsection requires the departments identified in Section 465.12 to be supervised “at all times” by a key employee. In practical experience in other jurisdictions, during particular

times, a long-term employee who is licensed as a gaming employee and not a key employee will temporarily oversee the referenced departments. The Isle urges the Board to allow for such management flexibility in the regulations.

V. Section 465.13(c)

For the same reasons stated above, this provision should be modified to permit the human relations department to oversee the issuance of access badges to employees, while the security department is responsible for the issuance of temporary and emergency access credentials.

W. Section 465.15(c)

This provision permits the establishment of satellite cages, provided that such cages are designed and constructed in accordance with the requirements imposed on subsection (b) for the main cashier's cage. Based on its experience, Isle of Capri Casinos submits that the requirements in subsection (b)(2) for a double door entry system is unnecessary for a satellite cage given the small amount of currency kept in such cages. The Isle requests that the provision be modified accordingly.

X. Section 465.16(c)(2)(i)

This subsection states that the main bank cashier's functions shall include receipt of cash and other valuable items, including "original copies of jackpot payout slips." The Isle requests that the regulation should be changed so as to read "duplicate copies" of such slips. In the Isle's experience, the original slip should remain with the money and ultimately go to the accounting department.

Y. Section 465.17(e) and (f)

These provisions require each slot cash storage box to have two separate locks, with one key being controlled by the slot accounting department and the other by the security department. Based on its experience, Isle of Capri Casinos submits that two locks is not only unnecessary, but

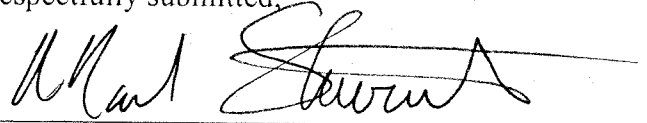
actually could be detrimental. First, the slot accounting department is a controlled area and the additional lock is not needed. Second, the security department has no need to actually use the key to the slot cash storage box. Accordingly, the regulation would result in an extra person having access to the cash box who has no need for such access. In addition to the potential for mischief this causes, the need to call in the security department every time a cash box is opened will slow the accounting process. Notably, in promulgating its new rules, Florida abandoned a similar two lock requirement.

Z. Section 465.18(b)

This provision requires that all “cash storage boxes removed from bill validators must be transported directly to, and secured in, the count room.” The Isle requests that the provision be modified to permit the cash boxes to be taken directly to a properly secured and situated BVA (bill validator acceptor) room. Isle of Capri Casinos’ facilities have a count room that is connected by an internal door with a BVA room. The internal door ensures that both the BVA and count rooms are controlled areas, and that employees working in such areas do not have to be exposed to the public to travel between the two rooms. Storing the cash boxes not currently being counted in the BVA room eliminates clutter and distractions from the count room, and thereby decreases the opportunity for theft.

WHEREFORE, IOC Pittsburgh, Inc. and Isle of Capri Casinos, Inc. respectfully request that the Pennsylvania Gaming Control Board include the modifications discussed above in its final Chapters 441, 461, 465 and 466 regulations.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark S. Stewart", written over a horizontal line.

Tami Bogutz Steinberg, Esq.

Mark S. Stewart, Esq.

Wolf, Block, Schorr and Solis-Cohen LLP

Date: May 15, 2006.

DRAFT REGULATION COMMENT FORM**RECEIVED**

Please complete all of the fields below before printing:

MAY 16 2006

DATE	05/15/06	ADDRESS 1
SECTION # OR SUBJECT	Proposed Chapters 441, 461, 465 and 466	ADDRESS 2
FIRST NAME	Dino	CITY
LAST NAME	Ross	STATE
ORGANIZATION NAME	Wolf, Block, Schorr and Solis- Cohen LLP	ZIP CODE
EMAIL ADDRESS	_____	COUNTY Lehigh
		TELEPHONE

COMMENTS

See attached comments submitted on behalf of Downs Racing, L.P. and its parent company, the Mohegan Tribal Gaming Authority.

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board
P O Box 69060
Harrisburg, PA 17106-9060
Attn: Public Comment

Dino A. Ross

E-mail:

May 15, 2006

Attn: Public Comment
Pennsylvania Gaming Control Board
P.O. Box 69060
Harrisburg, PA 17106-9060

Re: Comments to Draft Regulations Under Title 58 of the PA
Code, Chapters 441, 461, 465 and 466

Dear Sir/Madam:

On behalf Downs Racing, L.P. and its parent company, the Mohegan Tribal Gaming Authority, we are filing the enclosed comments to temporary regulations under title 58 of the Pa. Code, Chapters 441, 461, 465 and 466.

Please direct any questions or comments to me.

Sincerely,



Dino A. Ross

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

DAS/jls
Enclosures

HAR.65832.1/MOH005-222463

441, 461, 465, 466-3.2

**BEFORE THE
PENNSYLVANIA GAMING CONTROL BOARD**

In re: Promulgation of Temporary
Regulations Under Title 58 of the
Pennsylvania Code, Chapters 441, 461, 465
and 466

**COMMENTS TO DRAFT TEMPORARY
REGULATIONS OF DOWNS RACING AND MTGA**

Downs Racing, L.P. ("Downs Racing") and its parent company, the Mohegan Tribal Gaming Authority ("MTGA"),¹ respectfully submit these comments to the Pennsylvania Gaming Control Board ("Board") in regard to its publication of draft Chapters 441, 461 and 465 regulations on May 4, 2000. The regulations are intended to implement the provisions of the Pennsylvania Race Horse Development and Gaming Act (the "Act"), 4 Pa. C.S. §1101 et seq., and address licensing hearings for slot machine applicants (Chapter 441), slot machine testing, approval and control (Chapter 461) and create a system of accounting and internal control requirements and standards for the slot machine licensee (Chapter 465).

I. Introduction

Downs Racing appreciates the opportunity to submit these comments to the Board and participate in the process of creating rules and regulations under which Pennsylvania's future licensed gaming entities will operate. Chapter 441 of the proposed regulations sets forth the standards and criteria that each slot applicant must prove at the Gaming Hearing to establish its suitability and eligibility for licensure. Chapter 461 provides a set of regulations which governs slot machine testing, approval and control. The effective and efficient operation of slot machines

¹ MTGA also owns and operates the Mohegan Sun Casino in Uncasville, Connecticut.

are vital to the successful operation of a casino. The absence of adequate technical regulations for slot machine approval, testing and control will inhibit the ability of the licensee to maximize revenue, interfere with the customer's gaming experience and ultimately detrimentally effect the integrity of the slot operation. Chapter 465 establishes a system of internal procedures and administrative accounting controls (collectively "internal controls") for the slot licensee. Internal controls are critical components of a gaming operation both to the gaming entity, in terms of protecting its customers, facility and assets, and the Board, in terms of protecting the public and assuring the integrity of Pennsylvania gaming.

MTGA, through its gaming entities in other jurisdictions, possesses a wealth of experience with the development and implementation of a system for slot machine approval and testing and with the development and implementation of accounting and internal controls. MTGA has experience with the licensing and hearing process as well. MTGA and Downs Racing's comments to the proposed regulations stem from and reflect that experience and are offered in the hope that the Board will consider the modifications detailed herein with the understanding that they reflect the extensive experience of MTGA in the gaming industry.

II. Specific Comments

A. Chapter 441.

1. Confidentiality of Information

Downs Racing commends the Board on its efforts to establish an efficient and workable licensing hearing process pursuant to Section 1205 of the Act. Downs Racing further understands that the development of the procedures for the application hearing is an ongoing process which is subject to further development as the application process proceeds. Downs Racing, however, has one overarching concern regarding the hearing process – maintaining the confidentiality of information. Section 1206 of the Act provides strong protections for the

confidentiality of information and mandates that no applicant can be required to waive confidentiality. Accordingly, Downs Racing requests that the Board remain cognizant of the need to protect confidentiality during the hearing process and continue to develop procedures to accomplish this goal. Other administrative agencies, such as the Public Utility Commission, have established documentary and oral hearing regulations which provide strong and explicit protection for confidential information and can be used as a model to develop similar procedures in the licensing hearing context.

2. Section 441.19(o)

This section allows an applicant, in certain circumstances, to present evidence during its licensing hearing which sets forth a comparison between the applicant and other applicants within the same category. Downs Racing believes that while this comparative process may be appropriate for competitive licenses, it is not relevant or appropriate for non-competitive Category 1 licensees. Downs Racing commends the Board for recognizing the distinction between the relevance of comparative information in the context of competitive and non-competitive licenses and prohibiting the introduction of such comparative evidence in Category 1 licensing proceedings. (See Section 441.19(o) "With the exception of Category 1 applicants, . . .").

B. Chapter 461

1. Sections 461.1, 461.4(b)(3) and 461.4(b)(4)

MTGA and Downs Racing have formulated and embarked on a Customer Relationship Management ("CRM") strategy to better serve customers and as means to differentiate MTGA and Downs Racing from their competitors in jurisdictions that MTGA conducts business. To that end, MTGA and Downs Racing are developing proprietary processes and software systems to manage the acquisition of customer related data, customer relationship related data and

customer behavior related data. The issue of concern is whether these customer data systems which collect and analyze marketing information are "associated equipment" as defined in 4 Pa.C.S. § 1103.

"Associated equipment" is broadly defined by statute to include any "equipment or mechanical, electromechanical or electronic contrivance, component or machine used in connection with gaming..." However, slot monitoring systems, casino management systems, player tracking systems and wide area progressive systems, while technically associated equipment, are treated differently under the Gaming Act. 4 Pa.C.S. § 1317(a). Because the software underlying the CRM strategy is directly related to marketing and player tracking and not the operation of the actual slot machines or the recording or reporting of gross terminal revenue, these systems justify different treatment, in certain circumstances, than other associated equipment. In particular, while it may be appropriate and the Board may identify significant reasons for requiring testing of the CRM systems prior to initial installation, the Board should not require that this type of marketing software be subject to regulatory review and approval prior to each and every modification. Downs Racing and other licensees will be required to make frequent modifications to, for example, player points systems involving components of both the player tracking system and the casino management system, in order to respond to competition and meet market demand. These modifications must be made on very short notice in order to be effective and do not lend themselves to a regulatory approval process – nor is there any need to test this type of modification prior to implementation.

Given the foregoing, the Board should modify the draft regulations and clarify that customer marketing data base systems, like the CRM system, are either not associated equipment under the statutory definition, or, as the alternative, are not associated equipment which requires

regulatory review and approval prior to any change or alteration in the affected components of the player tracking system or the casino management system.²

2. Section 461.5(b)

This section requires “prior notice” in writing of a slot machine conversion to the Board’s slot lab. This section is somewhat vague in that it does not specify the time period required for giving “prior notice”. MTGA requests that the language be amended to clarify the timeframe required for giving notice prior to completing the conversion and recommends that the notices of conversion be submitted through a monthly conversion report to the Board.

3. Section 461.7(b)

This section prohibits a slot machine from being set to pay out less than the theoretical payout percentage, which shall be no less than 85% but not equal or exceed 100%. This section should be clarified to specify over what time period the 85% payment applies. For example, Section 1207(10) of the Act requires the Board to determine whether the theoretical payout percentage should be applied to the entire cycle of a slot machine game or any portion thereof. However, the regulation applies the payment percentage to the total value of slot machine wagers but is silent on the duration of the calculation period. MTGA recommends that the Board specify that theoretical payout percentage be applied to the entire cycle of a slot machine game.

4. Section 461.7(b)(6)

This section identifies the criteria used to calculate the theoretical payout percentage, one of the criteria being that the odds of any winning combination shall not exceed fifty million to one. In order for this factor to be useful in determining the theoretical payout percentage, it

² While the Board should not require regulatory review and approval of changes or alterations which are required to respond to competition or meet market demand, if the Board finds it necessary, it could require formal notice of all changes or alterations.

should be clarified to define the time period that applies to the quoted payout ratio. MTGA recommends that, like the previous issue, this issue be resolved by specifying a calculation period equal to the total cycle of a slot machine game.

5. Section 461.7(i)(1)(ii)

This section requires that multi-game and multi-denomination/multi-game slot machines must have meters that monitor the information necessary, on a per pay table basis, to calculate a weighted average actual payout percentage. This requirement is vague and needs clarification to better define the time period being analyzed and how often the analysis must be completed. Again, Downs Racing recommends that the Board specify that the calculation period be defined as the total cycle of a slot machine game.

6. Section 461.7(r)

This section mandates that a slot machine must be configured to not accept more than \$1,500 in currency before a wager must be made or play initiated unless otherwise authorized by the Board. This requirement is extremely limiting and restrictive for high denominational games and could easily result in competitive disadvantage. Accordingly, MTGA requests that the language be amended to allow some flexibility in this requirement based upon the slot machine's denomination by deferring the maximum play issue to the testing and certification process rather than attempting to impose an inflexible and difficult to modify requirement through regulation.

7. Section 461.8(l)

This section requires that all ticket redemption machines be dropped daily. This is a costly, unnecessary and overly burdensome requirement given currently available software systems. The software applications with ticket redemption machines allow the accounting department to obtain the necessary information to calculate revenue accurately on a daily basis without actually dropping the machines. Accordingly, whether or not a ticket redemption

machine is dropped daily or otherwise has no effect on the calculation of payment of a licensee's tax or assessment obligation to the Commonwealth. Instead, a drop requirement should be considered a business decision left to the licensee. The licensee should be permitted to determine the appropriate cost/benefit between dropping ticket redemption machines more frequently or less frequently, taking into account the cost of manpower balanced against cash flow/cost of money concerns. MTGA would therefore request that the language be amended to eliminate the requirement that all ticket redemption machines be dropped daily.

8. Section 461.8(l)(1)(i)

This section requires that the slot accounting department, on a daily basis, review gaming voucher documentation for the proprietary of signatures and all other information. It is unclear whether this language refers to paperwork generated by the count teams during the count process. Accordingly, the language should be amended to clarify if this requirement encompasses the paperwork generated by the count teams during the count process.

9. Section 461.8(l)(1)(ii)

This section requires that the slot accounting department, on a daily basis, compare gaming voucher system report totals to gaming vouchers actually received to ensure proper electronic cancellation of gaming vouchers. This language is vague in that it is unclear whether this section is referring to a comparison of soft count equipment reports to the slot accounting system reports or that some other comparison is intended. The language should be amended to clarify this ambiguity.

10. Section 461.8(l)(2)

This section mandates that the slot accounting department, on a weekly basis, compare appropriate slot machine meter readings to the number and value of issued and redeemed gaming vouchers per the gaming voucher system. This language could be interpreted to require that

meter readings of the entire floor need to be taken each day. This would be excessive and overly burdensome. MTGA therefore requests that the language be clarified to eliminate this overly burdensome possible interpretation.

11. Section 461.9(b)

This section allows a slot machine licensee to issue coupons, and defines a “coupon system” as the collective hardware, software, communications technology and other ancillary equipment used to facilitate the issuance of coupons. However, this section does not specify requirements regarding the storage of their information. It is important that a requirement is not imposed which mandates that licensees store this information on a completely separate data base file. This is because the coupon system must routinely interact with other components of the accounting system. Accordingly, it should be clarified that the coupon system's data should be stored in a data base file within the accounting systems. Otherwise unintended operational consequences will result.

12. Sections 461.10(g)(1), (2), (3), (4) and 461.10(i)

These sections establish a locking system for each automated gaming voucher and coupon redemption machine and further mandate that the keys to such locking system be controlled by the slot operations or accounting department. Based upon MTGA’s experience in this area, and as recognized by the industry generally, ticket redemption responsibilities should be assigned to the cage department, not the accounting or sales department. As a general rule, the cash associated with ticket redemption is never transferred to the accounting department and to do so would increase the chance of theft. Given this factor, coupon redemption machine keys should be controlled by the cage. Unlike the accounting department, the cage is open 24 hours a day, seven days a week and to assign key responsibility to the accounting department would

create likely scenarios in which the certain keys are required during periods when the accounting department is closed.

13. Section 461.10(n)

This section requires that each automated gaming voucher and coupon redemption machine must detect, display, record and communicate certain enumerated errors to the slot monitoring systems. Based upon MTGA's experience in this area, there is no product available on the market from a reputable manufacturer which allows this type of interaction between the coupon redemption machines and the slot monitoring systems. Instead, problems with slot machines, including the disablement of a machine, should be identified through direct oversight of the coupon redemption system by licensee personnel and any requirement that this information be transmitted to the slot monitoring system should be eliminated. The language should be amended to reflect this procedure.

14. Section 461(10)(o)

Similar to section 461.10(n), this section requires that each automated gaming voucher and coupon redemption machine determine, display, record and communicate certain enumerated errors to the slot monitoring system. It further provides that these enumerated errors must disable the voucher and redemption machines and prohibit new transactions and may only be cleared by a slot attendant. As stated above, in MTGA's experience, the better procedure is to require the monitoring software of the ticket redemption units to provide the necessary information to resolve these issues directly to licensee personnel rather than require communicating with the slot machine system. To the extent necessary, internal controls could be adopted to address operational issues as needed.

Further, as indicated previously, to minimize the risk to assets and reduce the possibility of theft and to conform with industry procedures and regulatory requirements in other states, the

cage department, not the slot department, should be controlling the issues associated with the ticket redemption machines. MTGA would therefore request that the language of this section be amended to reflect the above concerns.

15. Section 461.10(s)

This section requires that each gaming voucher and coupon redemption machine be equipped with electronic digital meters that accumulate certain enumerated information. Based upon MTGA's experience, manufacturers are not making available any voucher or coupon redemption machines which include meters within the machine. Rather, the machines generate system reports that record all transactions and provide all necessary information from an accounting perspective. Therefore, MTGA requests that the language be amended to clarify the definition of "meters" to include these reports or simply to indicate that the system reports described above are sufficient to satisfy the requirement of this section.

16. Section 461.12(b)(7)

This section provides that each slot machine that offers a progressive jackpot must have dual key control by the security department and slot accounting department. MTGA requests that the language be amended to replace the slot accounting department with the cage operation department for one important reason – slot accounting is not a 24-hour, seven day a week department. The cage operation department is a 24-hour, seven day a week department. Furthermore, key control by the security department will assure that all security concerns are accommodated.

17. Section 461.18(g)

Section 461.18(g) of the draft regulations would require Downs Racing to submit a monthly statement to each cashless funds transfer system patron detailing the patron's activity for that month. While Downs Racing is perfectly willing to prepare and send such monthly

statements upon the request of the patron, Downs Racing opposes the statements as a mandatory requirement. Many gaming patrons do not want such a monthly statement sent to the patron in any form. Requiring such a mailing to patrons who do not want such a statement is not supportable. Accordingly, Downs Racing requests that the regulation be modified to require such a mailing only upon the request of the patron.³

C. Chapter 465

1. Section 465.12(b)

Section 465.12(b) generally refers to a slot machine licensee's organization and requires mandatory departments and supervisory positions. In that regard, it appears that certain department heads must be referred to as "directors". Downs Racing does not, in all cases, refer to department heads as "directors". For example, Downs Racing has a "manager of security" as the highest level person in that department, a vice president of information technology as the highest level person in that department and a director of surveillance as the highest level person in that department. Downs Racing respectfully requests that the Board allow for some flexibility here and that the titles of each of the department heads not be determined by the regulations but that Downs Racing simply be permitted to identify the highest level person in each department to the Board.

2. Section 465.12(b)(6)

This section provides that each licensee must have a slot accounting department supervised by a person referred to as a controller. Included in the controller's duties are the

³ At a minimum, the patron should be able to opt out of the monthly statement. Further, it is noteworthy that the issue of monthly account systems has been the frequent subject of legislative debate. To date, the General Assembly has refrained from including such a requirement in legislation. Accordingly, the Board should follow the General Assembly's lead on this issue, and refrain from imposing such a requirement unless or until the General Assembly looks favorably on such a requirement.

control and supervision of the cashier's cage, any satellite cage and the count room. Downs Racing respectfully requests that this language be amended to allow some flexibility in the title and responsibilities of the head of the slot accounting department. Downs Racing is proposing an organizational structure, similar to what it has used in other jurisdictions, whereby the head of the slot accounting department is referred to as a "director" and the "director" is responsible for all of the areas enumerated in subsection(b)(6) except the control and supervision of the cashier's cage, satellite cages and count room. In MTGA's proposed management structure, the Director of Cage/Count Operations is responsible for these functions and reports directly to the Chief Financial Officer. This management structure has served MTGA well and has proved to be an effective model. MTGA and Downs Racing would again request that the language be amended to take into consideration the above comments.

3. Section 465.12¹²(f)

This section requires that each enumerated department must be supervised at all times by at least one "key employee." Downs Racing requests that this section be clarified to allow an employee at the supervisory level to supervise each shift. For example, the cage supervisor should be able to supervise the cage department, the count room supervisor should be able to supervise the count room, etc. It is standard in the industry that supervisory level employees are permitted to supervise the various departments. If the Board requires that the department be supervised at all times by individuals at a level higher than the supervisory level, this will create extraordinary manpower, staffing and scheduling problems.

4. Section 465¹²(b)(1)(vi)

This section refers to the requirement that a surveillance department should be responsible, without limitation, for the detection of the presence of excluded, ejected or self-excluded persons. While a surveillance department should play an important role in this process,

that role should not be solely assigned to that department. In MTGA's experience, the better practice would be that the surveillance department to share responsibility for detection with the security department, and such other regulatory or law enforcement personnel as may be present on the premises, such as officials from the Pennsylvania State Police or the Pennsylvania Gaming Control Board. This increases the likelihood that these persons would be detected as soon as possible, the apparent purpose of this provision. Accordingly, this section should be amended to allow for the potential for shared responsibility.

5. Section 465.17(b)

This section provides that access to the bill validator must be controlled by at least one lock, the key to which shall be controlled by the slot operating department. Downs Racing requests a clarification on what is meant by "bill validator key." There are two keys to a bill validator. First, there is the key to the door which provides access to the cash box. Second, there is the key to the cash access box itself. Downs Racing requests that this be clarified to define which key is intended. If it is intended that the slot department have access only to the key to the door which provides access to the cash box and not the cash box itself, Downs Racing has no further comment. If, however, it is intended that the slot department have the key to the cash access box itself, Downs Racing believes this section should be amended. For obvious security concerns, the cash access box is opened only in the count room by count room personnel under strict surveillance. Under no circumstances should the slot department have the key to the cash box. This will create serious security concerns and increase the likelihood of theft. Moreover, it is standard in the industry, for the reasons stated above, that the slot operations department does not have control of the key to the cash access box.

6. Section 465.17(f)

This section provides that the keys to one of the locks securing the contents of a slot cash storage box must be maintained and controlled by the slot accounting department (or in accordance with such alternative key controls as the Board shall approve) while the key to the second lock shall be maintained and controlled by the security department. In MTGA's experience, the better practice is to have the contents keys housed in the dual control lock box located in the cashier's cage. The cashier's cage is under constant surveillance and provides a safer and better alternative. MTGA requests that this language be amended to allow this procedure or that the Board simply approve this procedure as satisfying the intent of this section. Additionally, in MTGA's experience, a more effective and safer alternative for control of the contents keys is to have control of one key with the security department and control of the other key with the count team personnel rather than the slot accounting department. The slot accounting department is not a twenty-four hour, seven day a week department and therefore, key access problems would be created.

7. Section 465.18(b)

This section provides that all slot cash storage boxes removed from bill validators shall be transported directly to, and secured in, the count room by a minimum of three employees, at least one of which is a member of the security department and at least one of which is a member of the slot accounting department. Based upon MTGA's experience, the better and safer practice is to require three individuals in the count room at all times, including one security officer, a count team supervisor and another count team employee of any level. Moreover, it is important to understand that it would be inappropriate for a representative of the accounting department to participate because it could compromise the audit process. Resource constraints require that all accounting department representatives be a part of the audit process. As a fundamental

parameter, and to avoid bias, a department should not audit its own activities. Accordingly, participation of the security department will assure participation by an independent department and required accounting department participation should be eliminated.

8. Section 464.18(b)(i) and 465.18(c)

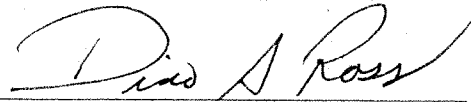
These sections essentially require that the key to one of the locks of a slot cash storage box shall be maintained and controlled by the slot accounting department. Based upon MTGA's experience in this area, the better practice is for that key to be maintained by the count team department, particularly since the accounting department is not open 24 hours a day, seven days a week. It is important to understand that it would be inappropriate for a representative of the accounting department to participate because it could compromise the audit process. Resource constraints require that all accounting department representatives be a part of the audit process. As a fundamental parameter, and to avoid bias, a department should not audit its own activities. Accordingly, participation of the security department will assure participation by an independent department and required accounting department participation should be eliminated.

III. Conclusion

MTGA and Downs Racing commends the Board on all of its work in establishing gaming in Pennsylvania, and its effort to benefit from and incorporate the experience of other jurisdictions. MTGA and Downs Racing appreciates the opportunity to share the perspective of a gaming operator and its experience in casino operations.

Wherefore, MTGA and Downs Racing respectfully request that the Pennsylvania Gaming Control Board include the modifications discussed above in its final Chapter 441, 461 and 465 regulations.

Respectfully submitted:



Alan C. Kohler, Esquire
Dino A. Ross, Esquire
Wolf, Block, Schorr and Solis-Cohen LLP

Michael J. Ciacco, Esquire
Mohegan Tribal Gaming Authority

Counsel for Downs Racing, L.P. and The
Mohegan Tribal Gaming Authority

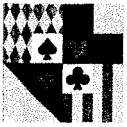
Date: May 15, 2006

MAY 15 2006

DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	05/15/2006	ADDRESS 1
SECTION # OR SUBJECT	Hearings, Slot Approvals, etc.	ADDRESS 2
FIRST NAME	John	CITY
LAST NAME	deGrasse	STATE
ORGANIZATION NAME	Mountainview Thoroughbred Racing Associ	ZIP CODE
EMAIL ADDRESS		COUNTY
		TELEPHONE
COMMENTS		



Memorandum

To: Pennsylvania Gaming Control Board
From: John deGrasse
Date: May 12, 2006
RE: Comments: Draft Regulations

The following are Mountainview Thoroughbred Racing Association's comments to the recently issued draft regulations:

LICENSING HEARINGS

MTRA has a general question regarding the application of this section to a Category 1 applicant. Certain provisions (such as 441.19(j), 441.19(t)) appear out of place when applied to a Category 1 applicant because such an applicant will not be competing against other entities for a license. MTRA respectfully suggest that this section be restructured so that provisions applicable to Category 1 applicants are separated from provisions applicable to all other applicants. While this segregation may result in some redundancy, it will assist in clarifying the rules for those applicants who are competing against one another and those applicants who must simply establish their suitability for a license

SLOT MACHINE TESTING, APPROVAL AND CONTROL

§461.4(a)

MTRA recommends that conditional sales be allowed so that a slot machine licensee may place an order for a device contingent upon the device receiving all required regulatory approvals. This will not adversely affect the integrity of gaming and it will assist in expediting the delivery of machines to the slot machine licensee.

§461.4(h)(8)(vi)

MTRA seeks clarification that this provision refers to procedures established by the manufacturer and is not referencing procedures for the initial installation of the devices.

§461.7(t)

MTRA opposes the requirement for fixed seating for the following reasons:

- The provision is contrary to the preference of many patrons. Fixed seating does not allow patrons to adjust their seating so that they will be comfortable at the machine.
- The provision requires a disabled person to request assistance every time he or she wants to play at a different device. While MTRA is pleased to assist such patrons any time they may need assistance, it is applicant's experience that many disabled individuals prefer to move about the facility on their own. Fixed seating will eliminate this possibility.
- The requirement does not enhance the safety of the patron or the integrity of the game as it is rarely imposed (to applicant's knowledge, only New Jersey has a similar provision) and those jurisdictions that do not have such a requirement have not experienced situations requiring a change in policy.
- Fixed seating is less aesthetically pleasing.
- There are limited styles from which to choose.
- Fixed seating is cost adverse, requiring an additional expenditure of 33% to 50%.

§461.10(g)(1)

The licensee should have the option of allowing two employees from a department other than slot operations (such as Cage personnel) control these keys. Applicant recommends that this paragraph contain the language found in §465.17(f) ("...or in accordance with such alternative key controls as the Board shall approve").

§461.10(g)(2), (3) and (4)

Similar to the above comment, MTRA does not believe these keys should be controlled by an employee of slot operations. The licensee should have the option of allowing an employee from a department other than slot operations (such as Cage or Security personnel) control these keys. Applicant recommends that this paragraph contain the language found in §465.17(f) ("...or in accordance with such alternative key controls as the Board shall approve").

§461.10(o)

The licensee should have the option of allowing someone other than a slot attendant clear these errors. At a minimum, the paragraph should provide that a slot attendant, slot technician or above can clear the errors. However, MTRA may prefer to have its Cage personnel clear these errors and respectfully requests that the paragraph include language allowing the Board to grant alternative procedures.

§461.10(p)

MTRA questions the need to treat an automated gaming voucher or coupon redemption machine the same as a slot machine. The vouchers or coupons in such devices are cancelled and cannot be used again. The cash in the devices does not affect the revenues of the operation. Therefore, applicant suggests that this provision, regarding a machine entry access log, be stricken as it is not necessary to enhance the integrity of gaming. It is merely an additional security measure to protect the assets of the licensee. The licensee should be allowed to determine if such a measure is necessary.

§461.13(d)

There is a typographical error on the eighth line of this paragraph. Strike the word "of."

§461.17(b)

It is contrary to applicant's experience that a randomly-awarded bonus would be included when calculating the theoretical payout of the machines. Typically, awards from bonus systems are available to all devices on the floor so long as someone is playing the device. Therefore, a potentially large bonus will be applied to large and small denomination machines and including such a large bonus in the theoretical payout calculation for the smaller denomination machines will skew the results to the point that a bonus will not be able to be offered, thereby reducing the availability of what has proven to be a very popular part of the gaming experience for many patrons.

§461.18(g)

MTRA notes that many patrons do not want mailings sent to them. The applicant recommends that this provision be changed to provide that such statements will be sent at the patron's request (which could be obtained when the patron initiates participation in the system).

Additionally, it is applicant's practice to not send materials to an address where a self-excluded person resides. Therefore, this paragraph should provide an exemption for a

patron who self-excludes himself. Moreover, this paragraph should allow for an alternative procedure if a patron resides with a self-excluded individual.

ACCOUNTING & INTERNAL CONTROLS

§465.12

Please confirm that the titles used throughout this section are for the Board's reference and that the applicant may assign different titles to those individuals performing the designated duties.

§465.12(b)(1)(iii)

MTRA objects to this provision to the extent it would require surveillance of the office of a Cage manager or the Cage supervisor. No activity occurs within those offices that requires surveillance monitoring. Moreover, counseling sessions may occur in the manager's office and these sessions should not be subject to observation.

§465.12(c)(2)(i), (ii) and (iii)

These provisions do not take into account that some gaming companies have a compliance committee as well as an audit committee. Surveillance should be allowed to report directly or indirectly to either of these committees.

Additionally, subsection (iii) presumes only one level of executive authority at the corporate level. This subsection should allow the internal audit or surveillance supervisor to report to an individual who reports directly to the senior surveillance or internal audit executive.

§465.12(b)(6)

The applicant's Chief Financial Officer (a key person) will ultimately supervise the count room and cashier's cage. In light of this, MTRA questions the requirement that the direct supervisors of the count room and cashier's cage be considered key employees.

§465.12(d)

MTRA questions the need for this provision. It is clear that the licensee will be held responsible for the failure of its employees to comply with Board requirements and the internal control system of the property. It is unclear what this provision adds to that requirement. If the specialized training that makes the employee "thoroughly conversant

in, and knowledgeable of, the required manner of performance of all transactions relating to their functions” adds an additional regulatory requirement, applicant requests guidance as to what that standard is. Additionally, if this provision is not stricken, will licensees be required to submit their training programs to the Board to ensure these programs meet this standard?

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§465.14(a)

The Pennsylvania State Horse Racing Commission allows for weapons to be carried by security personnel. Applicant requests that the two agencies resolve the conflict between these positions.

§465.14(b)

MTRA is not aware of the reason for such a broad prohibition against the use of off-duty police officers. Applicant requests guidance as to when such individuals may be employed by the property.

§465.15(b)(2)(i)

This paragraph assumes that the first door of the double door entry system will be adjacent to the gaming floor. This is not the case for MTRA. Therefore, the applicant requests that the provision be revised to read “The first door of the double door entry and exit system leading from the gaming floor must be controlled by the security department...”

§465.17(b)

Similar to the comments for 461.10(g) above, MTRA does not believe these keys should be controlled by an employee of slot operations. The licensee should have the option of allowing an employee from a department other than slot operations (such as Cage or Security personnel) control these keys. Applicant recommends that this paragraph contain the language found in §465.17(f) (“...or in accordance with such alternative key controls as the Board shall approve”).

§465.18(c)

MTRA requests that any member of the security department be allowed access to the key controlled by Security. This allows for more flexibility and avoids the situation where a supervisor must request an item from a subordinate. This more flexible approach will not compromise the integrity of gaming.

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RECEIVED

MAY 16 2006



May 15, 2006

Attn: Public Comment
Pennsylvania Gaming Control Board

Re: Draft Temporary Regulations

To Whom It May Concern:

Greetings from Las Vegas! I have had the opportunity to carefully review the abovementioned document over the last week or so. Very complete and comprehensive, embodying technical principles with which I'm familiar after 22 years in the manufacturing side of this business. I was particularly impressed with how you are envisioning server-based gaming systems (section 461.20 and .21). No other jurisdiction that I'm familiar with addresses both methodologies of managing this configuration.

We did have a question, though. If you would, please reference section 461.7(i)(1-20), which addresses required meters on the electronic gaming devices (EGD). We are somewhat confused regarding the following required meters:

- (7) Voucher In – Cashable/Count.
- (9) Voucher Out – Cashable/Count.
- (13) Coupon In – Cashable/Count.
- (15) Coupon In – Noncashable/Count.

We understand the need for "value" meters for vouchers and coupons as that is part of the accounting for net win. However, a "count" of vouchers and coupons is not part of the accounting equation. If you could be so kind as to explain what the need is for a count of vouchers and coupons, we would appreciate it.

Best regards,

A handwritten signature in black ink, appearing to read "Erik R. Batzloff", written over a horizontal line.

Erik R. Batzloff
Director, Product Compliance

DANIEL S. OJSERKIS
OFFICE MANAGING PARTNER

RECEIVED

MAY 18 2006

Marie Jiacopello Jones

May 15, 2006

VIA FACSIMILE AND REGULAR MAIL

Pennsylvania Gaming Control Board
P.O. Box 69060
Harrisburg, PA 17106-9060
Attn: Public Comment

Re: WMS Gaming Inc.
Comments to Proposed Regulations
Section 461

Dear Chair and Board Members:

Please be advised that we represent WMS Gaming Inc. ("WMS"), a manufacturer of slot machines, with its principal offices at

On behalf of WMS, we submit the following comments to the proposed regulations, Title 58. Recreation, Pennsylvania Gaming Control Board (the "Board"), Section 461, Slot Machines and Associated Equipment.

Thank you for considering the comments of WMS to the proposed regulations.

Respectfully submitted,
FOX ROTHSCHILD LLP


Marie Jiacopello Jones

MJJ/db

Enc.

cc: Daurean G. Sloan, Esquire, Executive Director of Regulatory Compliance
(w/enc.)
Nicholas Casiello, Jr., Esquire (w/ enc.)

ACI 367005v1 05/15/06

**COMMENTS OF
WMS GAMING INC.
ON SLOT MACHINE AND
ASSOCIATED EQUIPMENT REGULATIONS
May 15, 2006**

machine. The award schedule of available winning combinations may not include possible aggregate awards achievable from free plays. A slot machine that includes a strategy choice must provide mathematically sufficient information for a patron to use optimal skill. No information regarding a strategy choice need be made available for any strategy decisions whenever the patron is not required, in addition to the initial wager, to make an additional wager and, where as a result of playing a strategy choice, the patron can not lose any credits earned thus far during that game play.

WMS' Response: WMS respectfully requests the Pennsylvania Gaming Control Board to change the first sentence as follows: *The available winning combinations and applicable rules of play for a slot machine must be available at all times, [including during bonus rounds] except during game play, to the patron playing the slot machine.*

Video help screens and paytables can not be displayed during game play as such interruptions to reel spins or bonus game play may create confusion or situations where a patron could claim malfunction.

4. 461.7. Slot machine minimum design standards.

Section 461.7(i)(1)(ii)

For multi-game and multi-denomination/multigame slot machines, monitor the information necessary, on a per pay table basis, to calculate a weighted average actual payout percentage

WMS' Response: WMS respectfully requests the Pennsylvania Gaming Control Board to change the word "actual" to "theoretical", so the requirement reads as follows: *For multi-game and multi-denomination/multigame slot machines, monitor the information necessary, on a per pay table basis, to calculate a weighted average [actual] **theoretical** payout percentage*

COMMENTS OF
WMS GAMING INC.
ON SLOT MACHINE AND
ASSOCIATED EQUIPMENT REGULATIONS
May 15, 2006

PGCB 441, 461, 465, 466-6

5. 461.7. Slot machine minimum design standards.

Section 461.7(j)(3)

Credits Paid. The slot machine must have a meter, visible from the front exterior of the slot machine, known as a credits paid meter that advises the patron of the total value of the last gaming voucher dispensed.

WMS' Response: WMS respectfully requests the Pennsylvania Gaming Control Board to change as follows: *The slot machine must have a meter, visible from the front exterior of the slot machine, known as a credits paid meter that advises the patron of the total value [of the last gaming voucher dispensed] the last cashout initiated by the player or the value of a win paid out immediately by the machine.*

Gaming machine cashouts that result in cancel credit handpays, or wins that result in attendant paid handpays, need to be reflected on this meter as well, but the current wording only contemplates voucher payments.

6. 461.12. Progressive slot machines.

Section 461.12(b)(4)

A cumulative progressive payout meter that continuously and automatically records the total value of progressive jackpots paid directly by the slot machine or by a slot attendant. All meters must be visible from the front of the slot machine.

WMS' Response: WMS respectfully requests the Pennsylvania Gaming Control Board to strike the last sentence, such that the requirement reads as follows: *A cumulative progressive payout meter that continuously and automatically records the total value of progressive jackpots paid directly by the slot machine or by a slot attendant. [All meters must be visible from the front of the slot machine].*

The progressive meter defined in 461.12(b)(1) should be visible from the front of the slot machine but the meters defined in 461.12(b)(2), 461.12(b)(3), and 461.12(b)(4) typically are meters found within the Attendant Menu and are not typically visible from the front of the machine. These meters are only

COMMENTS OF
WMS GAMING INC.
ON SLOT MACHINE AND
ASSOCIATED EQUIPMENT REGULATIONS
May 15, 2006

PGCB 441, 461, 465, 466-6

accessible to an attendant without opening the main door (i.e. accessible via the attendant side key).

7. 461.14, 461.15, 461.16, 461.17 and 461.18. *[Various] Systems.*

Section 461.14(c), 461.15(c), 461.16(c), 461.17(e), 461.18(c)

A slot machine licensee is prohibited from utilizing a *[various]* system which has not had any interface between it and slot machines and related systems tested, certified and approved by the Board pursuant to § 461.4 (relating to submission for testing and approval).

WMS' Response: WMS respectfully requests the Pennsylvania Gaming Control Board to clarify how this requirement will be enforced in regards to a gaming machine supplier's obligation, a *[various]* system supplier's obligation, and the slot machine licensee's obligation, since requirement 461.4 does not discuss any system other than the central control system.

8. 465.17 Bill validators and slot cash storage boxes.

Section 465.17(a)

Each slot machine shall be equipped with a bill validator configured to accept currency, gaming vouchers, coupons and such other instruments as are authorized by the Board for incrementing credits on a slot machine.

WMS' Response: WMS respectfully requests the Pennsylvania Gaming Control Board to change the word "shall" to "may", and add the words "any combination of", so the requirement reads as follows: *Each slot machine [shall] may be equipped with a bill validator configured to accept any combination of currency, gaming vouchers, coupons and such other instruments as are authorized by the Board for incrementing credits on a slot machine.*

DRAFT REGULATION COMMENT FORM

RECEIVED

MAY 17 2006

Please complete all of the fields below before printing:

DATE	5/15/06	ADDRESS 1
SECTION # OR SUBJECT	Proposed Chapters 441, 461, 465 and 466	ADDRESS 2
FIRST NAME	Alan	CITY
LAST NAME	Kohler	STATE
ORGANIZATION NAME	Wolf, Block, Schorr and Solis-Cohen LLP	ZIP CODE
EMAIL ADDRESS		COUNTY
		TELEPHONE

COMMENTS

See attached comments submitted on behalf Greenwood Gaming and Entertainment, Inc.

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board
P. O. Box 69060
Harrisburg, PA 17106-9060
Attn: Public Comment

Alan C. Kohler

May 15, 2006

Attn: Public Comment
Pennsylvania Gaming Control Board
P.O. Box 69060
Harrisburg, PA 17106-9060

Comments to Draft Regulations Under Title 58 of the PA
Code, Chapters 441, 461, 465 and 466

Dear Sir/Madam:

On behalf of Greenwood Gaming and Entertainment, Inc. we are filing the enclosed comments to temporary regulations under title 58 of the Pa. Code, Chapters 441, 461, 465 and 466.

Please direct any questions or comments to me.

Sincerely,



Alan C. Kohler

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

ACK/jls
Enclosures

**BEFORE THE
PENNSYLVANIA GAMING CONTROL BOARD**

In re: Promulgation of Temporary
Regulations Under Title 58 of the
Pennsylvania Code, Chapters 441, 461, 465
and 466

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:
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:

**GREENWOOD GAMING AND ENTERTAINMENT, INC.'S
COMMENTS TO DRAFT TEMPORARY REGULATIONS**

Greenwood Gaming and Entertainment, Inc. ("GGE") respectfully submit these comments to the Pennsylvania Gaming Control Board ("Board") in regard to its publication of draft Chapters 441, 461 and 465 regulations on May 4, 2000. The regulations are intended to implement the provisions of the Pennsylvania Race Horse Development and Gaming Act (the "Act"), 4 Pa. C.S. §1101 et seq., and address licensing hearings for slot machine applicants (Chapter 441), slot machine testing, approval and control (Chapter 461) and create a system of accounting and internal control requirements and standards for the slot machine licensee (Chapter 465).

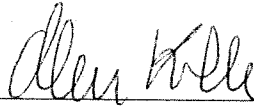
GGE has reviewed the Board's draft temporary regulations and, generally speaking, finds them acceptable. GGE is in a different situation than applicants which operate gaming facilities in other jurisdictions, and because of this difference is able to build its operational structure and internal controls from the bottom up to comport with the Board's requirements.

However, it must oppose one provision of the draft regulations as proposed. Section 461.18(g) of the draft regulations would require GGE to submit a monthly statement to each cashless funds transfer system patron detailing the patron's activity for that month. While GGE is perfectly willing to prepare and send such monthly statements upon the request of the patron,

GGE opposes the statements as a mandatory requirement. Many gaming patrons do not want such a monthly statement sent to the patron in any form. Requiring such a mailing to patrons who do not want such a statement is not supportable. Accordingly, GGE requests that the regulation be modified to require such a mailing only upon the request of the patron.¹

WHEREFORE, GGE respectfully requests the Board to modify its draft temporary regulations as discussed above.

Respectfully submitted,



Alan Kohler.

Wolf, Block, Schorr and Solis-Cohen LLP

Of Counsel:

Frank McDonnell
Vice President and General Counsel

Stephen D. Schrier, Esq.
Obermayer Rebmann Maxwell & Hippel

Date: May 15, 2006

¹ At a minimum, the patron should be able to opt out of the monthly statement. Further, it is noteworthy that the issue of monthly account systems has been the frequent subject of legislative debate. To date, the General Assembly has refrained from including such a requirement in legislation. Accordingly, the Board should follow the General Assembly's lead on this issue, and refrain from imposing such a requirement unless or until the General Assembly looks favorably on such a requirement.

RECEIVED

MAY 17 2006

Frank A. DiGiacomo

May 15, 2006

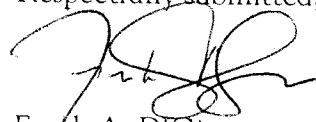
Pennsylvania Gaming Control Board
Office of Communications
P.O. Box 69060
Harrisburg, PA 17106-9060
Attn: Public Comment

Re: Comments to Draft Temporary Regulations on behalf of
Bally Technologies, Inc. and Bally Gaming, Inc.

Dear Sir/Madam:

Enclosed please find three (3) copies of the comments of Bally Technologies, Inc. and Bally Gaming, Inc. to regulations published by the Pennsylvania Gaming Control Board concerning slot machine testing, approval and control, and slot machine computer systems.

Respectfully submitted,



Frank A. DiGiacomo

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

FAD
Enc.

cc: Marc Comella, Bally Technologies, Inc. (with encl.)
Tina Kilmer, Bally Technologies, Inc. (with encl.)

**BEFORE THE
PENNSYLVANIA GAMING CONTROL BOARD**

Promulgation of Regulations Pertaining to
Slot Machine Testing, Approval and Control
under Title 58 of the Pennsylvania Code

**BALLY TECHNOLOGIES, INC. AND BALLY GAMING, INC.'s
COMMENTS TO DRAFT REGULATIONS**

Bally Technologies, Inc. and its wholly owned subsidiary, Bally Gaming, Inc. (collectively "Bally") have a pending application before the Board for a Manufacturer license under the Pennsylvania Race Horse Development and Gaming Act ("Act"), 4 Pa.C.S. § 1101 *et seq.* ... Bally submits these comments in response to the Board's publication of draft temporary regulations pertaining to slot machine testing, approval and control, and slot machine computer systems.

COMMENTS

The Board has posted temporary draft regulations to facilitate the prompt implementation of the Act as it pertains to slot machine, associated equipment and slot machine computer system testing and approval. Bally's comments only pertain to Chapter 461 of the proposed regulations.

Draft § 461.7 (i) sets forth that each slot machine approved for use in a licensed facility must be equipped with specific cumulative, non-cumulative and other meters. The draft regulation identifies many of those required meters by name (i.e "Coin in", "Voucher In - Cashable/Count"), and also provides a brief description of what each meter is to accumulate or advise the patron of.

Bally objects to draft § 461.7 (i), if it is the Board's intent that Bally's slot machines will be required to use the actual meter names as identified in the draft regulation. . If , however, it is the Board's intent that Bally's slot machines have all the meters with the functionality as described in the regulation, then Bally has no objection to the regulation. Bally has existing game platforms which have been approved and operate in numerous other jurisdictions. Bally hopes to distribute many of those same , successful platforms for use in Pennsylvania. The meters in those platforms accomplish all the functions as set forth in draft § 461.7 (i), however Bally identifies those meters by different names. To change the meter names in Bally's existing platforms for Pennsylvania would prove to be costly and would not add to the functionality of the slot machines in any manner.

May 15, 2006

RECEIVED

MAY 17 2006

BALTIMORE, MD
DENVER, CO
SALT LAKE CITY, UT
VOORHEES, NJ
WASHINGTON, DC
WILMINGTON, DE

ADRIAN R. KING, JR.

May 15, 2006

Via Certified Mail
Return Receipt RequestedPennsylvania Gaming Control Board
P.O. Box 69060
Harrisburg, Pennsylvania 17106-9060
Attn: Public Comment**Re: Draft Temporary Regulations 58 Pa. Code Ch. 441**

Dear Chairman Decker and Members of the Board:

Keystone Redevelopment Partners, LLC ("KRP") respectfully submits these comments to the Pennsylvania Gaming Control Board ("Board") in regard to its publication of draft regulations for Chapter 441 on May 4, 2006. Although published together with Chapters 461, 465 and 466, the following comments pertain only to Chapter 441, which relates to licensing hearings for slot machine licenses.

1. Section 441(j)

Section 441(j) requires that the applicant file with the Board and serve on all applicants seeking the same category of license a memorandum that identifies all of the evidence that the applicant intends to use in support of its presentation before the Board. This memorandum must be filed "no later than 30 days before the first scheduled licensing hearing in the category of license for which the applicant has filed an application."

Given the scope and complexity of the evidence that an applicant must prepare to present to the Board, KRP respectfully requests that Section 441(j) be revised to require the applicant to file this memorandum no later than 10 days before the first scheduled licensing hearing in the category of license for which the applicant has filed an application. Such a revision would be consistent with the goal of affording both the Board and the other applicants for the same category of license the opportunity to review the evidence the presenting applicant intends to put forth well in advance of the hearing, while at the same time affording the presenting applicant adequate time and greater flexibility to develop its evidentiary record and ensure that such record is comprehensive and up-to-date.

2. Section 441(o)

As currently written, Section 441(o) allows applicants, except for those applying for a Category 1 license, the opportunity to “present evidence which sets forth a comparison between the applicant and other applicants within the same category” using the standards and criteria that are set forth in Sections 441(f), 441(g), 414(h) and 441(i).

Section 441(o) is both unnecessary and confusing to the licensing hearing process. KRP respectfully submits that it is solely the responsibility of the Board to review and compare the merits of applications for slot machine licenses using the standards and criteria that the Board has promulgated, and also through investigations into the backgrounds, strengths and weaknesses of the various applicants (conducted by the Board’s Bureau of Investigations and Enforcement and the Pennsylvania State Police), as necessary. Critically, the applicants themselves are limited in their ability to offer meaningful comparisons because of their lack of access to the type of information available to the Board, which information is required to make any sort of informed and valid comparison. As a result, any comparisons that the applicants could make would be superficial and uninformed. Further, allowing an applicant to make a comparison between itself and the other applicants could easily result in hearing testimony that is without decorum. Finally, Section 441(o) is contrary to the Board’s prior practice of prohibiting applicants from “comment[ing] on or referenc[ing] any other applicant for licensure” (see Public Input Hearing Rules and Code of Conduct for Operator Applicants, Item 5). Accordingly, for the above reasons, KRP respectfully requests that the Board strike Section 441(o).

3. Section 441(p)

Under Section 441(p), it is left to the Board’s discretion to determine whether an applicant will be allowed to present its evidence at the hearing using oral presentation, documentary evidence, or some combination of the two methods. As an initial matter, KRP respectfully submits that an applicant for a license should be allowed to present its evidence in the method it believes will be most effective. In addition, as Section 441(p) is currently drafted, it is unclear how the Board will make this decision. Section 441(p) does not indicate whether an applicant will be given the opportunity to present to the Board its arguments for why it should be allowed to present evidence in a particular form. KRP respectfully requests that the Board revise this section to remove the reference to the Board’s discretion, or, in the alternative, to provide both the specific criteria the Board will use to guide its decision regarding the form of evidence, as well as a procedure an applicant may use to present to the Board its arguments concerning why it should be allowed to utilize a particular method of presenting its evidence.

4. Section 441(z)(2)

Section 441(z)(2) allows a party to file a petition to intervene in a licensing hearing for a slot machine license if the party has an interest which is “substantial, direct and immediate and if the interest is not adequately represented in a licensing hearing.” While KRP understands and appreciates that the licensing hearings should be an open process, the

regulations as currently drafted undermine efficiency and could result in an evidentiary record that is unduly repetitive.

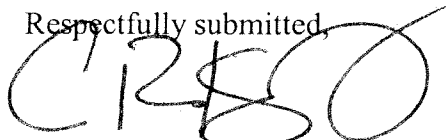
KRP respectfully requests that the language in Section 441(z)(2) be revised to read: "A person may file a petition to intervene under this subsection if the person has an interest in the proceeding which is substantial, direct and immediate, which is not adequately represented in a licensing hearing, and which has not been previously raised via prior testimony or written submissions before this Board." KRP's position is that, as a matter of efficiency and to avoid unnecessary burdens on both the Board and the applicants, it is not necessary to give parties whose interests have already been adequately represented as part of the Public Input Hearings or other proceedings before the Board the opportunity to intervene in an applicant's licensing hearing.

5. Section 441(z)(6)

Section 441(z)(6) states that the participation of a person granted the right to intervene in a licensing hearing will be limited to the submission of written statements attested to under oath "except where the Board determines it is necessary to develop a comprehensive evidentiary record." KRP notes two potential problems with this provision. The first is that it is unclear what standards the Board will use to make their decision on whether more than a written submission is necessary. Second, the provision does not indicate what other methods a party intervening in a licensing hearing will be allowed to use if the Board determines that more than a written submission is necessary.

As a result of this provision's current language, the applicant whose licensing hearing is the target of the intervention may not be given an adequate opportunity to contest the evidence presented by the intervening party. KRP respectfully requests that, for the sake of clarity and to protect the ability of applicants to adequately and thoroughly prepare for their licensing hearings, the provision "except where the Board determines it is necessary to develop a comprehensive evidentiary record" be eliminated, or that it be substantially rewritten in order to limit its application and more specifically define the standards and criteria the Board will utilize in allowing an intervening party to present evidence through methods other than written submissions attested to under oath.

Thank you for your time and consideration of these comments and suggestions. If you have any questions, I may be contacted by telephone at

Respectfully submitted

Adrian R. King, Jr.

ARK/

MAY 18 2006

DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE 05/15/2006

SECTION # OR SUBJECT May 4, 2006 Proposed Regulations

FIRST NAME Michael

LAST NAME Sklar

ORGANIZATION NAME Mount Airy #1, L.L.C.

EMAIL ADDRESS

ADDRESS 1

ADDRESS 2

CITY

STATE

ZIP CODE

COUNTY

TELEPHONE

COMMENTS

Please see attached comments.

Comments may be submitted to the Board by U.S. Mail at the following address:
Pennsylvania Gaming Control Board
P.O. Box 69060
Harrisburg, PA 17106-9060
Attn: Public Comment

LEVINE, STALLER, SKLAR, CHAN, BROWN & DONNELLY, P.A.

a Professional Association

COUNSELLORS AT LAW

ARTHUR M. BROWN[†]
PAUL T. CHAN^{****}
MARY BETH CLARK
BRIAN J. CULLEN[†]
JOHN M. DONNELLY^{****}
LEE A. LEVINE^{****}
E. ALLAN MACK^{**}
KEVIN J. McCABE
SCOTT J. MITNICK^{**}
ARTHUR E. SKLAR[†]
MICHAEL D. SKLAR[†]
ALAN C. STALLER[†]
BENJAMIN ZELTNER^{**}

May 15, 2006

[†]LL.M. (Taxation)

^{*}MEMBER NJ & PA BAR

^{**}MEMBER NJ & FL BAR

^{***}MEMBER NJ, NY & FL BAR

^{****}MEMBER NJ & DC BAR

Via Certified Mail/Return Receipt Requested

Pennsylvania Gaming Control Board

Office of Communications

P.O. Box 69060

Harrisburg, PA 17106-9060

ATTN: Public Comment

RE: Comments to May 4, 2006 Proposed Gaming Regulations

Dear Sirs:

Please accept the following comments regarding the proposed gaming regulations on behalf of Category 2 Applicant Mount Airy #1, L.L.C.

We join in the comments submitted by HSP Gaming, L.P. under cover letter dated May 15, 2006 with the following exception: We believe that Mt. Airy should only be required to serve, if applicable, a copy of its hearing memorandum on Pocono Manor Investors, L.P. rather than all Category applicants.

Respectfully submitted,


MICHAEL D. SKLAR

S:\DONNELLY\MT AIRY\051506 PGCB ltr re proposed regulations.doc

cc: Louis DeNaples

RECEIVED

MAY 18 2006

DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	<input type="text" value="05/15/2006"/>	ADDRESS 1	<input type="text"/>
SECTION # OR SUBJECT	<input type="text" value="Sections 441, 461, 465 and 466"/>	ADDRESS 2	<input type="text"/>
FIRST NAME	<input type="text" value="John"/>	CITY	<input type="text"/>
LAST NAME	<input type="text" value="Donnelly"/>	STATE	<input type="text"/>
ORGANIZATION NAME	<input type="text" value="HSP Gaming, L.P."/>	ZIP CODE	<input type="text"/>
EMAIL ADDRESS	<input type="text"/>	COUNTY	<input type="text"/>
		TELEPHONE	<input type="text"/>

COMMENTS

Please see attached comments.

Comments may be submitted to the Board by U.S. Mail at the following address:
Pennsylvania Gaming Control Board
P.O. Box 69060
Harrisburg, PA 17106-9060
Attn: Public Comment

LEVINE, STALLER, SKLAR, CHAN, BROWN & DONNELLY, P.A.
a Professional Association
COUNSELLORS AT LAW

ARTHUR M. BROWN†
PAUL T. CHAN†***
MARY BETH CLARK
BRIAN J. CULLEN†
JOHN M. DONNELLY****
LEE A. LEVINE†****
E. ALLAN MACK†*
KEVIN J. McCABE
SCOTT J. MITNICK†*
ARTHUR E. SKLAR†
MICHAEL D. SKLAR†
ALAN C. STALLER†
BENJAMIN ZELTNER**

May 15, 2006

†LL.M. (Taxation)
*MEMBER NJ & PA BAR
**MEMBER NJ & FL BAR
***MEMBER NJ, NY & FL BAR
****MEMBER NJ & DC BAR

Pennsylvania Gaming Control Board
Office of Communications
P.O. Box 69060
Harrisburg, PA 17106-9060

ATTN: Public Comment

RE: Proposed Regulations regarding Licensing Hearings

Dear Sirs:

Please accept the following comments regarding the proposed regulations regarding licensure on behalf of Category 2 Applicant HSP Gaming, LP.

1. Proposed Regulation Section 441.19(z) – Intervention.

We oppose the proposed intervention regulations. Our objection is based both on substantive and procedural grounds. Would be interveners have already been granted the opportunity to express their views through the Public Input Hearings and the associated opportunity to provide written comments to the Board through June 2, 2006. Thus, their position is abundantly “on the record”.

Pennsylvania Gaming Control Board
Office of Communications
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Page 2

Procedurally, if a person is granted the right to intervene in the licensing hearing, he or it may be deemed a party to the proceedings and thus obtain appellate rights. Potentially, hundreds of interveners could become parties through this mechanism, which may delay the implementation of the gaming legislation and frustrate the process.

As to the particular draft regulations, we believe the 10 day time period prescribed in subsection (z)(5) for response to a petition to intervene is too short and suggest it be doubled to 20 days.

We have no objection to the Board allowing individuals to submit written comments in conjunction with the licensing hearing as set forth in subsection (z)(6). We believe that the written submission process without formal intervention adequately addresses the interests of any potential intervener.

2. Proposed Regulation Section 441.19(o) – Comparative Evidence.

The proposed regulations permitting applicants to critique other applicants are, we believe, inappropriate. They will lead to uncertainty as to how to proceed and, more importantly, diminish the entire process.

As the Public Input Hearings demonstrated, Applicants are capable of pointing out the distinguishing aspects of their project and highlighting the perceived defects of their competitors without specifically identifying the competitors by name or specifically attacking their project. Since the rules for those hearings prohibited direct comparison, this was done at the Public Input Hearings with a high degree of professionalism and civility.

Pennsylvania Gaming Control Board
Office of Communications
May 15, 2006
Page 3

The draft regulations, on the other hand, create an adversary proceeding where Applicants will be compelled to sharply criticize their competitors and their proposed projects. It should be expected that expert opinion testimony will be offered not only on technical issues such as traffic and access, but also on architecture, interior design, corporate management capabilities, marketing plans and other subjective criteria. Inviting applicants and their lawyers to devise and present reasons why their competitors should not receive a license will, we believe, lower the tone of the entire proceeding and introduce little relevant information which has not already been discovered by the Board's investigators.

We also believe that the proposed process will render the hearings unmanageable. Each applicant that is the target of criticism will no doubt seek to rebut. Moreover, as a defensive measure, each applicant will be forced to take an adverse position vis-a-vis all of its competitors. In short, the entire process will be significantly expanded in both time and scope.

If the Board concludes that the presentation of comparative evidence must be permitted, we suggest that comparisons be done only in written form as provided in subsection (o)(2). Applicants should be prohibited from calling witness to testify regarding the eligibility or suitability of other Applicants. If the comparative evidence is so limited, there should be no need to present comparative evidence in closed deliberations as provided in subsection (o)(4). As such, this subsection should be deleted.

We also suggest that subsection (o)(2) should be revised to provide that the comparative evidence must be provided no later than 30 days prior to the commencement of the first

Pennsylvania Gaming Control Board
Office of Communications
May 15, 2006
Page 4

scheduled licensing hearing in order to be consistent with proposed Regulation Section 441.19(j). In addition, a copy of the notice relating to the comparative evidence (and reply notice, if applicable) should be served on all Applicants seeking the same category of license rather than just the applicant about whom the evidence will be presented. The category, however, should be limited to those actual competitors e.g. Philadelphia candidates for a Category 2 License, not all Category 2 applicants.

3. Proposed Regulation Section 441.19(j) – Hearing Memorandum

We believe the obligation to provide a “copy of each document to be proffered” to each competitor prior to the hearing unworkable.

Each Applicant will be forced to provide competitors its entire Category 2 application as well as any additional information it seeks to introduce at the licensing hearing. This because the Applicant has “proffered” its application to the Board. In HSP’s case, the Category 2 applications of HSP and its affiliates exceeded 15 banker’s boxes. Each applicant will therefore be serving thousands upon thousands of pages upon its competitors, which for Category 2 applicants translates into service on 14 entities. Even if limited to Philadelphia competitors; five Applicants are involved.

The purpose of licensing hearings is twofold: (1) to allow Applicants to demonstrate their eligibility and suitability for licensure; and (2) to provide the Board with an opportunity to question Applicants regarding the same. Requiring Applicants to submit a copy of their entire presentation and application to competitors does not further those purposes.

Pennsylvania Gaming Control Board
Office of Communications
May 15, 2006
Page 5

The proposed rule also presents a logistical problem with the required service of these thousands of documents. We believe the licensing process would be better served by making the non-confidential/proprietary portions of the Applications available at the Board's offices for inspection, review and copying at the expense of the party seeking the information. (Copying could be performed by an outside vendor). Alternatively, a passcode-protected website could be established where competitor Applicants could view non-confidential filings upon approval by the Board.

The bulk of the Category 2 Application (excluding the PHDF's and PA Supplements) is neither confidential nor proprietary and should be made available to the general public as well as competitors. Indeed, in our observation of the Public Input Hearings, Applicants made public much of their application, including portions of marketing plans, revenues estimates and other typically proprietary information.

We believe the PGCB should invite Applicants to designate those portions of their applications they consider confidential or proprietary and, following consideration of these comments and a ruling from the Board, the non-confidential/proprietary information should be made public.

Finally, we believe the Board should adopt some procedure to officially seal those portions of the Application and other documents that actually are confidential.

4. Proposed Regulation Section 441.19(d) – Hearing Presentation

In the interest of fairness and equality, we suggest this provision should be revised as

Pennsylvania Gaming Control Board
Office of Communications
May 15, 2006
Page 6

follows: "The Board will allot each Applicant an equal amount of time for its presentation."

5. Proposed Regulation 441.19(p) – Presentation Materials

We believe that the Board should notify an Applicant at least fifteen days prior to the licensing hearing if it is to be prohibited from presenting any evidence set forth in Applicant's memorandum submitted pursuant to subsection (j). This will allow an Applicant to revise its presentation.

6. Proposed Regulation Section 441.19(x)

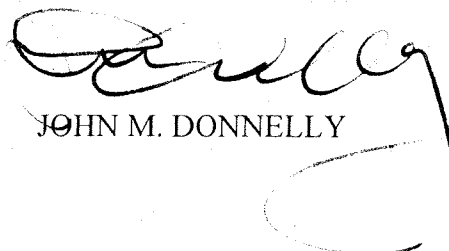
We believe that the cross-reference therein should be to §494.8 rather than §494.7.

7. Proposed Regulation Section 461.8 – Gaming Vouchers

We suggest that the proposed regulation provide that gaming vouchers redeemed at slot machines may be destroyed 90 days following such redemption and gaming vouchers redeemed at any location other than a slot machine may be destroyed 180 days following such redemption.

Thank you for the opportunity to present these comments.

Respectfully submitted,



JOHN M. DONNELLY

CC: Greg Carlin



RECEIVED

MAY 18 2006

May 12, 2006

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Gaming Control Board
P.O. Box 69060
Harrisburg, PA 17106-9060
Attention: Public Comments

Re: Comments on Draft Temporary Rules and Regulations

Dear Chairman Decker and Board Members:

International Game Technology and its subsidiaries (collectively "IGT") appreciate the opportunity to provide comments regarding temporary rules and regulations to facilitate the prompt implementation of 4 Pa.C.S. Part II (relating to gaming). IGT submits the following comments on the attached forms prescribed by the Board.

Thank you for your time and consideration in this matter. Please feel free to contact me

Sincerely,

A handwritten signature in black ink, appearing to read "Gayle Bauer", is written over a horizontal line.

Gayle Bauer
Regulatory Compliance Manager

/pab

cc: Guy Michaels

International Game Technology
Regulatory Compliance

DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	05/12/2006	ADDRESS 1	
SECTION # OR SUBJECT	461	ADDRESS 2	
FIRST NAME	Gayle	CITY	
LAST NAME	Bauer	STATE	
ORGANIZATION NAME	IGT	ZIP CODE	
EMAIL ADDRESS		COUNTY	
		TELEPHONE	

COMMENTS

461.1. Definitions. Wager

Comment: Can a wager include credits from a bonus system?

461.2. Protocol Requirements.

Comment: Will these requirements be forthcoming?

461.3[2]. Testing and [certification] approval generally.

[(2)](3)(d) Current language: On or before July 5, 2007, the Board shall establish and maintain an independent slot machine testing and certification facility. The cost of establishment and operation of such facility shall be paid by each manufacturer licensee in accordance with a schedule by the Board.

Comments: The cost and maintenance of the facility will be borne by the revenue from certain lab fees, what percentage shall each manufacturer licensee pay initially and annually to establish and maintain such a facility?

461.4. Submission for Testing and approval.

Comments: (e) Please clarify 'periodically' prescribed certification. This period should be more defined. Please clarify 'chief engineer'.

461.7. Slot machine minimum design standards.

Comments:

(b) A slot machine is prohibited from being set to pay out less than the theoretical payout percentage. By definition, 'theoretical' is a long term average. At any point, there is a 50/50 chance that the machine is paying out less than the theoretical payout percentage, ('overholding').

(e) The volatility of a slot machine shall verify that the theoretical payout percentage equals or exceeds the minimum payout requirement of 85% within 10 million plays. IGT cannot make a 100% guarantee. Random games do not work like that. The theoretical payout percentage equals or exceeds the minimum payout requirement within X million plays.

(h) Current language: "The available winning combinations and applicable rules of play for a slot machine must be available all times, including during bonus rounds..." IGT points out that the help screens are generally not available during bonus rounds on our current products, and requests that this requirement be removed.

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board
P.O. Box 69060
Harrisburg, PA 17106-9060
Attn: Public Comment

DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	<input type="text" value="05/12/2006"/>	ADDRESS 1	<input type="text"/>
SECTION # OR SUBJECT	<input type="text" value="461"/>	ADDRESS 2	<input type="text"/>
FIRST NAME	<input type="text" value="Gayle"/>	CITY	<input type="text"/>
LAST NAME	<input type="text" value="Bauer"/>	STATE	<input type="text"/>
ORGANIZATION NAME	<input type="text" value="IGT"/>	ZIP COD.	<input type="text"/>
EMAIL ADDRESS	<input type="text"/>	COUNTY	<input type="text"/>
		TELEPHONE	<input type="text"/>

COMMENTS

Page 2, Continued.

IGT notes that the voucher and coupon meters in Subsection (i) are not consistent with current slot machine design. Section 461.8 defines a gaming voucher as "an instrument that upon insertion into a slot machine bill validator entitles the patron inserting the gaming voucher to cashable or noncashable credits on a slot machine corresponding to the value printed on the gaming voucher." Section 461.9 defines a coupon as "an instrument issued by a slot machine licensee pursuant to which cashable or noncashable slot machine credits are provided directly or indirectly to a patron with or without regard to the identity of the patron or their level of gaming activity." The distinction between these two instruments is not clear. The coupon appears to be a promotional device, but a voucher may also be noncashable, which implies a promotional status of the credits.

Current slot machine design based on the latest Nevada regulations defines a voucher to be a cashable instrument, and a coupon to be a noncashable instrument. The EGM is unable to distinguish between instruments issued by the licensee and instruments printed by a slot machine, and therefore cannot meter based on this distinction. Current design does allow a slot machine to print a coupon for noncashable credits, allowing players to move from one machine to another rather than forcing them to play an entire coupon on one machine. Noncashable credits are always played first, and the noncashable status is maintained at all times. Therefore, IGT recommends the following meters for vouchers and coupons:

Voucher In-Cashable/Value
 Voucher In-Cashable/Count
 Voucher Out-Cashable/Value
 Voucher Out-Cashable/Count
 Coupon In-Noncashable/Value
 Coupon In-Noncashable/Count
 Coupon Out-Noncashable/Value
 Coupon Out-Noncashable/Count

Subsection (j)(3) states the credit paid meter must display "the total value of the last gaming voucher dispensed." IGT requests that this meter be allowed to display "the total value of the last gaming voucher or coupon dispensed, or attendant pay."

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board
 P.O. Box 69060
 Harrisburg, PA 17106-9060
 Attn: Public Comment

DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	05/12/2006	ADDRESS 1	
SECTION # OR SUBJECT	461 and 465.12	ADDRESS 2	
FIRST NAME	Gayle	CITY	
LAST NAME	Bauer	STATE	
ORGANIZATION NAME	IGT	ZIP CODE	
EMAIL ADDRESS		COUNTY	
		TELEPHONE	

COMMENTS

Page 3. Continued.

461.7 (i) (10) Cashable Electronic In. and (11) NonCashable Electronic In.
 Comment: Will there be technical requirements for the 'cashless funds transfer system'?

461.7(a) line 11, correction: the word 'billets' should be 'bills'.

461.8. Gaming Vouchers.
 (g) (1) and (2)
 Comment: Is the term 'voucher serial number' the same as a voucher validation number? If so, can the validation number be truncated on the Ticker Issuance Report?

461.12 Progressive slot machines.
 Comments:
 IGT request that 'or' be added in line 3 of Subsection (a); "A progressive slot machine may stand alone, or be linked..."
 IGT requests clarification of the cumulative progressive meter under (b)(4).

In Subsection (m), IGT requests clarification to the progressive jackpot amount which is less than \$1,200. Does this apply to a stand alone machine or to multiple slot machines linked together?

(b)(4) states, "All meters must be visible from the front of the slot machine." IGT requests clarification that these meters are not required to be displayed to the patron. The language of Section 461.7(m) more clearly requires attendant access to the meters without opening the slot machine.

465.12. Slot machine licensee's organization.
 (b)(3)(A) states that "Each slot machine located on the gaming floor is connected electronically to the slot machine licensee's computerized slot monitoring system and the Commonwealth's central control computer..." How is this to be accomplished? Does the regulation contemplate two connections from each slot machine - one for the computerized slot monitoring system and one for the central control computer. Please clarify.

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board
 P.O. Box 69060
 Harrisburg, PA 17106-9060
 Attn: Public Comment

RECEIVED

MAY 18 2006

DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE: 05/15/2006

SECTION # OR SUBJECT: Comment on Reg. 441.19(z) - Intervention

FIRST NAME: David

LAST NAME: Robbins

ORGANIZATION NAME: Community Economic Development Resourc

EMAIL ADDRESS:

ADDRESS 1:

ADDRESS 2:

CITY:

STATE:

ZIP CODE:

COUNTY:

TELEPHONE:

COMMENTS

Please see attached.

Kindly note this represents comments not only of CEDRIC but of a number of other organizations including:

- Project H.O.M.E.
- CityTeam Ministries
- Pillars of the Community
- Human Rights Coalition - Chester
- Delaware County Community Foundation

The Comment as prepared is being circulated among many interested parties and request is made of the Board to allow supplementation of the list of sponsoring orgnaizations within the next ten days.

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board
P.O. Box 69060
Harrisburg, PA 17106-9060
Attn: Public Comment

CEDRiC

May 15, 2006

Pennsylvania Gaming Control Board
Office of Communications
P.O. Box 69060
Harrisburg, PA 17106-6090

RE: Comment on Draft Temporary Regulation (441.12(z) – Intervention)

Dear Chairman Decker and Members of the Board:

In response to the notice from the Pennsylvania Gaming Control Board (the "Board") soliciting comments from interested parties regarding draft temporary regulations pertaining to licensing hearings for slot machine licenses (among other matters), the Community Economic Development Resource Center ("CEDRiC") prepared this joint memorandum on its own behalf and on behalf of the FAIR (Fair and Accountable Investment of Revenue) Deal Coalition as well as the following 501(c)(3) organizations: Project H.O.M.E.; CityTeam Ministries; Pillars of the Community; Delaware County Community Foundation; and, the Human Rights Coalition – Chester, among others. This diverse group has a keen and abiding interest in the Board's work and especially its regulations which could significantly affect the ability of public-interest and other organizations, as well as local governmental and local agencies, in offering their thoughts and insights on particular licensing applications.

At the outset, we want to thank the Board and its staff for its tireless efforts in drafting many regulations covering the myriad of issues connected with gaming in this Commonwealth. It is our group's sincere desire that these comments will be accepted in the spirit in which they are submitted: as an effort to assure that the Board maintains a transparent and careful process for the review of all licenses with full input from organizations which may possess insights and information that could inform the Board's deliberations. We remain ever mindful that the Gaming Act ("Act") unequivocally directed that "The public interest of the citizens of this Commonwealth and the social effect of gaming shall be taken into consideration in any decision or order made pursuant to this part." 4 Pa.C.S.A. §1102 (10). The legislature took pains to recognize the importance of the "credibility and integrity of licensed operations" and gave the Board the power to promulgate such rules and regulations to enhance same. 4 Pa.C.S.A. §1202 (14). The Board was also directed to pursue diversity "in the ownership, participation


CEDR C

and operation of licensed entities and facilities...”. 4 Pa.C.S.A. §1212 (a) and in terms of labor hiring preferences. 4 Pa. C.S.A. §1510 (a) (“Each licensed gaming entity shall prepare a hiring plan ... which promotes a diverse workforce, minority participation and personnel from within the surrounding geographical area”). It is also important to reflect on the fact that the approval or renewal of all slot machine licenses is predicated on a determination of whether the issuance of the license will enhance tourism, economic development or job creation [and] is in the best interests of the Commonwealth.”). 4 Pa.C.S.A. §1325 (a). See also 4 Pa.C.S.A. §1315 (a) (slot machine license may only be issued “upon a finding that it is in the public interest.”).

With these legislative mandates in mind, we have turned our collective focus on proposed regulation 441.12(z) relating to Intervention in slot machine licensing hearings. We respect the effort that went into crafting this subsection of the regulation. However, its general tenor and focus are misguided. The proposed regulation collapses the concept of intervention by deliberate circumscription of those eligible to participate and the manner in which they must perfect that ability. It then assigns the gate-keeping function regarding what the intervenor may present to the “sole discretion of the Board.” The notion of vesting the Board with unreviewable discretion in this regard not only diminishes the potential for insightful and wide-ranging public comment but disparages the public trust in the slot machine licensing process.

As currently drafted, the Board “may” conduct a hearing in the region where the proposed facility is to be located. How can the public feel that it has a stake and an influence in the decision-making process regarding the issuance of a local slots license if no third parties have a right to speak directly to the Board? With every license issued, disgruntled locals will subject the Board to allegations arising from their perception that they were not accorded a fair mechanism for airing their concerns or grievances. Granted, allowing participation in live hearings may not be the most efficient method of gathering information, however its absence may minimize (if not preclude) the Board’s capacity to process critical input from local organizations and other potent and motivated entities and agencies; such entities possess an authoritative familiarity with the local problems and a true grasp of the local situation. The Board should not view this kind of input as a distraction or a nuisance¹; to the contrary, it rests at the very heart of its efforts to assure that the presence of licensees and their operations within a given community

¹ The proposed licensee should also welcome the information. Such “on the street intelligence” could provide the slots operator with advance warning of problems with its potential neighbors. This could allow for open communication and resolution of perceived problems and issues on an informal basis.

The logo for CEDRIC (Center for Economic and Development Research in the Commonwealth) features the acronym in a bold, sans-serif font. To the right of the text is a stylized graphic of a person standing on a stack of three books, with a lightbulb above their head, symbolizing research and education.

improve that community and the Commonwealth. These are core goals and central to the purpose of the Act. To deprive third parties from a right to be heard at a live hearing and limit access to other informed citizens is to abdicate regulation of the gaming industry to the industry. If the only entity that has a right to appear is the licensed party then, necessarily, the only parties that have the benefit of face-to-face time with the Board is accorded only to the regulated parties.

An example under the proposed regulation might prove illustrative. If a local school district or organization sought participation in a licensing hearing, it would be required to clear a number of hurdles. First, it would be required to file a Petition with the Board for an opportunity to be heard. (See Draft Reg. 441.19 (z) (1)). While some might view the filing of a Petition as nettlesome or even onerous, we recognize that its filing forces the prospective intervenor to crystallize these thoughts and commit them to a written document. This offers the salutary additional benefit to the Board (and to the license applicant) of a fair opportunity to assess the nature of the proposed presentation. However, the intervenor would need to establish an interest in the proceeding which is “substantial, direct and immediate and if [probably should be “that”] the interest is not adequately represented in a licensing hearing.” (Id. at 441.19 (z) (2)). In contrast to the Petition requirement, the allegation required can be viewed broadly or narrowly and thus prevent the presentation of information by entities that are not able to articulate their “interest” in a fashion satisfactory to meet the regulation. Some organizations, such as the FAIR Deal Coalition² - an entity devoted to an intelligent and meaningful allocation of gambling revenue to workforce and community development programming, could express a general interest in assuring that the licensee should meet certain minimal standards to assist the local community. The Board could readily dismiss such a Petition for Intervention solely on the basis that the entity’s interest was not sufficiently “substantial, direct or immediate” and/or that “the interest was [already] adequately protected in the licensing hearing.” In a very narrow sense, a FAIR Deal Coalition-type organization’s interest in slots licensing is limited to seeing that proceeds of gaming are left within the community and are used to help the locals build an infrastructure dedicated

² The FAIR Deal Coalition is a multi-county coalition located in the Philadelphia metropolitan area seeking to ensure a fair and accountable allocation of gambling revenue - both public and private - directly to benefit the economically disadvantaged. Consisting of more than a dozen faith-based, non-profit, and community-based entities, the FAIR Deal Coalition seeks not only equity in the distribution of gambling dollars - but an inclusive and transparent process in that distribution. Accordingly, the FAIR Deal Coalition focuses on maximizing citizen participation which is informed, accurate and useful to the Pennsylvania Gaming Control Board, the private entities competing for licensure and governmental entities. This participation will ensure that adequate dialogue, careful analysis and purposeful negotiations will precede final decisions affecting monetary distributions.

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to addressing poverty within the community. Yet these considerations may not be sufficiently closely aligned with the actual licensure process to allow the proposed intervenor to meet the specified standard. Even if the Board decided that the first aspect was met, it could decide that the proposed intervenor's interests were going to be represented by another intervenor. This ignores the fact that oft-times it is the subtle, nuanced presentation of various organizations that allows the fact-finder to divine the true nature of what is being communicated. In other words, just because one group is already scheduled to address an intervention issue does not mean the Board should exclude another group's effort.

The 45-day notice of intervention prior to the hearing date seems unduly long. (*Id.* at 441.19 (z) (3)). Unquestionably, there should be enough notice to afford the license applicant an adequate opportunity to respond. (*Id.* at 441.19 (z) (5)). But, if the Board announces a licensing hearing application within sixty days, it leaves little room for an organization to "get wind" of the opportunity to be heard and an unquestionably limited time period to prepare and provide its Petition. Granted, the Board is accorded discretion to extend the time period (*Id.*). But the reasonableness of time frames in the abstract is much easier to handle than hard deadlines actually imposed in the midst-and-haste of everyday organizational functioning. Furthermore, the deadline becomes an additional potential roadblock to intervention.

The proposed regulation contains a default position that limits most intervenors' participation through written submission alone. Only when the Board decides that the record requires supplementation will the intervenor be permitted to participate in the hearing. As noted previously, preventing live testimony carries a variety of undesirable consequences. The inability of the Board to fully appreciate insights and intelligence from within the community to be served by the proposed licensee is but one risk. Further, the live testimony of such third parties assures that the Board retains perspective and is better equipped to resist the temptation to allow the regulators to become pawns of the regulated.

Another point commands consideration. As the Board is well aware, the citizenry of the locales in which these facilities are being considered has never been asked to vote on the issue. This break from standard democratic procedure leaves the Board as the final bastion of political process. Like it or not, the Board is not exclusively an instrumentality of policy implementation. Due to the nature of its legislative commission, the Board also functions in a capacity to directly affect the aims of the policy subject to implementation. Thus, unlike most administrative agencies, this Board's

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function is not purely instrumental; it is also political. Therefore, in large measure it has a duty to assure that not only the prospective licensees are heard, but also other parties interested in offering their insights. The Board must carefully validate the information provided from all to minimize the prospects of deviating from the original goals set by duly elected officials. To the extent that additional information is garnered, it helps maximize the democratization process, especially with reference to the issuance of local licenses.

We urge the Board to reconsider its mission and the proposed intervention regulation in light of the express terms of the Act and offer the enabling legislation the currency it deserves. We believe that such a review offers clear guidance as to the need for an open and free policy regarding the participation of third parties in the licensing hearing process. Significant research demonstrates that high-quality public participation can optimize participants' beliefs in desirable ways. Not only does it assure that the Board will possess full information from which to make informed decisions, it also reinforces the confidence of the intervenors and the public-at-large in the trustworthiness and responsiveness of the Board.³

CONCLUSIONS

It is respectfully submitted that the Board decline the promulgation of certain aspects of 441.19 (z) regarding Intervention and instead consider promulgation and implementation of alternative regulations as follows:

- The Board should hold hearings at each prospective location to allow local community input.
- The input should be wide-ranging and should not be limited by standards which may superficially appear reasonable but which prevent local input on what is, in large measure, a political determination.
- The Board should exercise reasonable discretion in deciding who may be excluded.
- Intervenors should be permitted to offer live testimony or evidence, as of right.

³ The value of including different viewpoints in public meetings transcends the information conveyed. After participation in quality project meetings, participants were significantly more likely to believe the agency was responsive to public concerns. Additionally, empirical evidence suggests that certain aspects of quality participation are positively associated with expectations about the agency's responsiveness and performance. Positive correlations have also been associated with the agency's tolerance for differences of opinion. These results demonstrate the functional importance of participatory democracy. Kathleen Halvorsen, Assessing the Effects of Public Participation, 2003 Public Administration Rev. 535-543.

CEDRiC

- The intervenor should be able to submit an application to be heard any time within 25 days of the date of the hearing on a specific application.
- The Board should schedule local hearings with at least 60 days notice to the applicants and to the local community to allow all to prepare adequately to offer full information to the Board for proper consideration.

Thank you for your consideration of this submission.

Respectfully submitted,



David E. Robbins, President
CEDRiC

DER/ww

KONAMI

GAMING

441, 461, 465, 466-14.1

May 15, 2006

Pennsylvania Gaming Control Board
P.O. Box 69060
Harrisburg, Pa. 17106-9060,

Attn: Public Comments.

Pennsylvania Gaming Control Board,

Konami Gaming has reviewed **Annex A Rules and Regulations, Chapter 441, 461 and 420**. Below are our comments on the draft regulations.

461.7 (e) At what confidence level should the volatility analysis be performed?

461.7 (h) Does help screen have to be available during a reel spin?

461.7 (i) Some of the meters listed in this section are defined in the SAS protocol to be in credits and cannot be in cash.

461.7 (j) (3) Should handpays be reflected on the credits paid meter?

461.7 (r) Can this be configurable by the operator and not hard-coded in the gaming device?

461.7 (s) (1) Must the gaming device display the text "presentation error" when a presentation error occurs?

461.12 (b) (4) Please clarify the statement "All meters must be visible from the front of the slot machine." This is typically not information displayed to patrons and typically resides in the soft meters of the slot machine, which, although are visible from the front of the slot machine are not visible with out accessing the meter page.

461.12 (m) What is the reason for \$1200.00 limit?

If you have any questions or comments please feel free to contact me at or email me a

Best Regards



Spencer Peterson
Assistant Director of Technical Compliance

PGCB 441, 461, 465, 466-14