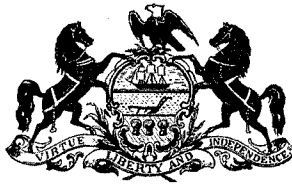


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COMMONWEALTH OF PENNSYLVANIA
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June 6, 2007

Kim Kaufman, Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

RE: Department of Revenue Regulation #15-436
Pennsylvania Gaming Cash Flow Management – Final Rulemaking

Dear Mr. Kaufman:

I am informed by Andrew J. Ritter, Jr., Executive Director (R) of the House Finance Committee, that you have extended an offer for the submission to IRRC of any “final” observations concerning the above-referenced final-form regulation. While the Revenue Department (Revenue) did address many of the concerns expressed by various commentators during the proposed rulemaking stage, I do have a few short comments for your consideration prior to the June 21 IRRC vote on this regulation.

You may recall that IRRC, along with myself, asked Revenue to provide more information on the proposed “proration” of the required annual minimum payment from slots facilities to host municipalities. While Revenue did offer a rationale of its intended use of the municipal fiscal year as a base for computation of the payments, and noted that the distribution of such payments should correlate with “.....the timeframe in which a licensed facility was actually in operation,” no changes were made to the proposed regulation on this point and further detailed explanation was not forthcoming.

IRRC had suggested that more detail be included in the portion of the regulation dealing with the assessment of a slots licensee for the recoupment of Commonwealth regulatory costs attributable to the licensee. See section 1001.6(e)(1) [re-lettered (d)(1) in the final rulemaking]. The regulation still simply calls for “periodic” assessments and does not contain specific timeframes for same. I share your previously expressed concerns.

Section 1001.6(e)(3) [re-lettered to (d)(3) in the final rulemaking], which deals with the recovery of “general” regulatory costs not attributable to a specific licensee, was altered in response to concerns expressed by myself, IRRC and others regarding the seemingly blanket authority

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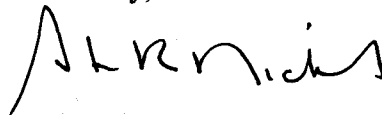
Kim Kaufman, Executive Director
Independent Regulatory Review Commission
June 6, 2007
Page Two

granted to the Revenue Secretary to determine a methodology to use in calculating these assessments. While the final rulemaking does provide that licensees are to bear these costs on a pro rata basis until all Category 1 and Category 2 licensees are up and running, there are no specifics set forth on how this proration is to be effected, and the Secretary still appears to retain the discretion to utilize some other cost recovery methodology during that time period. Accordingly, I must strongly reiterate the contention made in my March 29, 2007, letter to Revenue that there is an absence of underlying statutory authority to support this broad "grant" of discretionary power to the Secretary.

Finally, section 1001.5(c)(1) in the final rulemaking provides that if a slots licensee fails to attain the required annual minimum payment due the host municipality within fifteen days after the end of the municipality's fiscal year, Revenue must notify the licensee of the deficiency (specifying the amount due). The language at this point becomes somewhat confusing in that, on the one hand, it requires the deficiency to be remitted within fifteen days following the end of the municipality's fiscal year, while on the other hand, it appears to require remittance within fifteen days of the deficiency notice from Revenue.

Thank you for the opportunity to submit these comments. Please feel free to contact me with any questions you might have regarding this matter.

Sincerely,



Steven R. Nickol
Minority Chairman
House Finance Committee

SRN:dp