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PhiladelphiaPark

CASINO

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July 25, 2008

VIA FEDERAL EXPRESS

Paul Resch
Secretary
Pennsylvania Gaming Control Board
303 Walnut Street
P.O. Box 69060
Harrisburg, PA 17106-9060

Attn: Public Comment on Regulation #125-88

RE: Comments to Proposed Regulation #125-88

Dear Mr. Resch:

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Greenwood Gaming and Entertainment, Inc. ("GGE") is the holder of a Category 4 slot machine license which authorizes GGE to operate Philadelphia Park Casino ("PPC") in Bensalem, Pennsylvania. GGE respectfully submits the following comments to the Pennsylvania Gaming Control Board (the "Board") in connection with the Board's proposed rulemaking, as captioned above, which was published in the *Pennsylvania Bulletin* at 38 Pa.B. 3507, on June 28, 2008.

The proposed rulemaking at issue places several additional obligations and requirements on slot machine licensees and their business practices. Initially, the proposed rulemaking demands that slot machine licensees create internal procedures for their various promotions throughout the year. Additionally, the proposed regulations require the submission of new quarterly reports, which reconcile the tax amount invoiced by the Pennsylvania Department of Revenue and the tax accrual determined by the slot machine licensee's revenue/income audit process. Finally, the proposed rulemaking eliminates the long-standing and effective delegated authority of the Executive Director by requiring a formal petition for certain changes to the gaming floor. While GGE does not object to the entire proposed rulemaking, GGE does object to the preceding revisions, which substantially alter current operations and practices under the Pennsylvania Race Horse Development and Gaming Act's ("Gaming Act"). The following items represent GGE's individual objections to the proposed rulemaking.

I. Proposed Regulation 465a.2(a)(7)

Pursuant to the proposed rulemaking, a new paragraph (7) has been added to 58 Pa. Code § 465a.2 (relating to internal control systems and audit protocols). Section 465a.2(a)(7) requires a slot machine licensee to include, in its internal controls, the procedures that the slot machine licensee will use to conduct promotions. Specifically, the provision provides in pertinent part, "A written system of internal controls must include . . . (7) Procedures governing the conduct of all gaming related promotions to be offered by the slot machine licensee." Proposed Rulemaking #125-88, *Pennsylvania*

Bulletin, 38 Pa.B. 3507 (June 28, 2008). The Board posits that this new provision will allow it to determine that sufficient patron protections are provided for each promotion without requiring a slot machine licensee to obtain separate approvals for each promotion it intends to run.

GGE objects to the proposed regulation in its current form. GGE recognizes that the proposed rulemaking attempts to ensure that patrons are adequately protected. Moreover, GGE fully endorses the goal of the Board to avoid separate approvals for each promotion offered by slot machine licensees. However, the proposed regulation, in its current form, is vague and ambiguous. Although it identifies the Board's desire for procedures relating to slot machine licensees' promotions, it fails to provide any guidance regarding the patron protections that need to be addressed in the procedures. As such, GGE cannot ascertain what basic protections should be included in its promotion procedures. GGE respectfully requests that the Board withdraw the present proposal and issue a revised proposal with additional guidance regarding the basic protections and safeguards that the Board desires in these procedures.

II. Proposed Regulation 465a.4

The proposed rulemaking for 58 Pa. Code § 465a.4 (relating to standard financial and statistical reports) would eliminate the current monthly financial reporting requirement and replace it with a quarterly reconciliation report. Section 465a.4 would require a slot machine licensee to file a reconciliation report, which provides a detailed reconciliation between the amount invoiced by the Department of Revenue and the tax accrual determined by the slot machine licensee's revenue/income audit process. The proposed rulemaking provides, in pertinent part: "Within 30 days of the close of each calendar quarter, slot machine licensees shall file a report which includes a detailed reconciliation of the amount invoiced by the Department to the tax accrual determined by the slot machine licensee's revenue/income audit process." Proposed Rulemaking #125-88, *Pennsylvania Bulletin*, 38 Pa.B. 3507. The Board asserts that this new provision will allow it to help evaluate the effectiveness and accuracy of a slot machine licensee's accounting operations.

GGE strongly endorses the transition in the proposed regulation from a monthly reporting requirement for financials to a quarterly reporting requirement. GGE respectfully requests that the Board withdraw the present proposal and issue a revised proposal with a sample report format of the reconciliation report to ensure there are no misunderstandings or misinterpretations regarding the specific data that the Board expects to receive from licensees. In order to achieve a consensus regarding the requirements of the reconciliation report, GGE respectfully requests that the appropriate Board personnel visit slot machine licensees before the proposed regulation would become effective to outline and review exactly what the Board wishes to see in these quarterly reports.

III. Proposed Regulation 467a.1

Pursuant to the proposed rulemaking, 58 Pa. Code § 467a.1 (relating to gaming floor plan) would maintain the present requirement that formal petitions be filed with the Board for floor changes that increase or decrease either the approved machine count or the approved casino floor area. However, the proposed rulemaking would eliminate the long-standing and effective delegated authority of the Executive Director to approve administratively gaming floor changes that do not

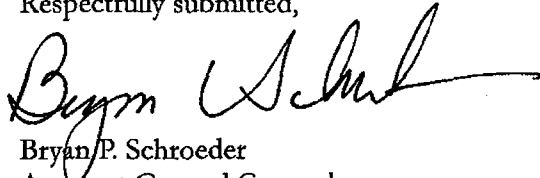
affect approved machine count or floor area. Section 467a.1 would require a slot machine licensee to file a formal petition with the Board if the licensee seeks simply **“the relocation of 2% or more of the slot machines on the floor plan...”** Proposed Rulemaking #125-88, *Pennsylvania Bulletin*, 38 Pa.B. 3507 (emphasis added). The Board posits that this new provision will result in quicker approval of changes that do not involve changes in the square footage of, location of slot machines on, or the number of slot machines on the gaming floor.

GGE strenuously objects to the proposed regulation. Currently, there is an existing Board Order implemented in early 2007 that delegates authority to the Executive Director of the Board for relocation of slot machines without limitation so long as the machine count or casino floor area is not being modified. From its own experiences, GGE can attest that the current system of delegated authority to the Executive Director works extremely well. GGE respectfully disagrees with the Board’s determination that this new regulation will result in quicker approvals. GGE believes that formal petitions will significantly increase the approval time for routine slot machine relocations. This delay in the approval process would likely result in the loss of revenue to the Commonwealth and its taxpayers and the formal petition process will increase costs to the slot machine licensee with no attendant benefit to the public, the Commonwealth or the regulatory system.

Alternatively, if the Board believes that limitations need to be added to section 467a.1, then GGE recommends that the Board implement a threshold substantially above the 2% proposal for machine relocations that do not change the machine count or casino floor area. Currently, PPC operates 2,912 slot machines and the 2% figure equates to merely 58 slot machines. This low percentage significantly hampers a slot machine licensee’s ability to adjust quickly to customer demands and playing patterns. With the mixture of temporary facilities and newly-erected permanent facilities and the impending implementation of the new smoking regulations, slot machine licensees need some flexibility regarding the locations and groupings of various slot machines. By imposing such a small percentage on slot machine licensees, the Board is severely restraining the licensees’ ability to respond quickly and efficiently to the demands of their customers.

Thank you for considering the comments of GGE in connection with the proposed regulation. GGE will be happy to answer any questions that the Board may have on these comments.

Respectfully submitted,



Bryan P. Schroeder
Assistant General Counsel
Greenwood Gaming & Entertainment, Inc.

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cc: Arthur Cocodrilli, Chairman, Independent Regulatory Review Commission