



# PhiladelphiaPark

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March 20, 2009

**VIA FEDERAL EXPRESS**

Richard Sandusky  
Director of Regulatory Review  
Pennsylvania Gaming Control Board  
303 Walnut Street  
P.O. Box 69060  
Harrisburg, PA 17106-9060

Attn: Public Comment on Rulemaking #125-97

**RE: Comments to Proposed Rulemaking #125-97**

Dear Mr. Sandusky:

Greenwood Gaming and Entertainment, Inc. ("GGE") is the holder of a Category 1 slot machine license which authorizes GGE to operate Philadelphia Park Casino & Racetrack 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 39 Pa.B. 1003, on February 21, 2009.

The proposed rulemaking in question addresses the ability of vendors to do business with slot machine licensees pending vendor certification or vendor registration. The proposed regulation would amend 58 Pa. Code 437a.9, by adding two subsections relating to the revocation of authority to conduct business with slot machine licensees. Under the new provisions, if the Office of Enforcement Counsel issues a Notice of Recommendation for Denial to an applicant for vendor certification or vendor registration, then the vendor applicant would have to cease doing business immediately with the slot machine licensee. See 58 Pa. Code 437a.9(b) (*as proposed* at 39 Pa.B. 1003). Moreover, the slot machine licensee would be precluded from doing further business with that vendor applicant. See 58 Pa. Code 437a.9(c) (*as proposed* at 39 Pa.B. 1003). GGE respectfully objects to the proposed rulemaking in its current form.

The proposed regulation has the potential to impose significant difficulties and work stoppages on slot machine licensees. If the proposed provisions are invoked, slot machine licensees will have to cease doing business with the vendors in question pending resolution of their applications. Even with a contract between the vendor and slot machine licensee, any work

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stoppage will represent a significant disruption that is inconvenient, burdensome and costly. For example, new vendors may not be available to continue the work or the work at issue may be of a nature that is specific to the particular vendor applicant. Under such scenarios, slot machine licensees will face costly delays and have few reasonable options available to them.

However, there are at least two more viable options for the Board, slot machine licensees and vendors. Under the first option, the Board would permit the vendor in question to continue working through the completion of the certification or registration process, but require the slot machine licensee to make payments for that work into an escrow account. The escrow account could only be released upon vendor certification, vendor registration or approval from the Board for good cause shown. The second approach would create a 30 day winding-up period. Under this approach, the Board would need to give the vendor and slot machine licensee 30 days notice before issuing the Notice of Recommendation for Denial. The 30 day winding-up period would provide the slot machine licensee with time to find a new vendor, transition to that new vendor and limit costly delays.

Due to the substantial negative impact of a Notice of Recommendation for Denial on a slot machine licensee's business, GGE would respectfully request that proposed regulation 437a.9(c) be revised to require that the Bureau of Licensing notify any slot machine licensee by letter. GGE believes a telephone call, email or facsimile from the Bureau of Licensing would not constitute sufficient notification of a Notice of Recommendation for Denial. The significant business and legal consequences of a Notice of Recommendation for Denial demand a more formal notification than the preceding types of communication. Any monetary or time increases associated with letter notification are nominal.

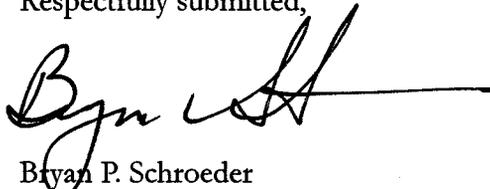
While this proposed rulemaking will have significant ramifications on vendors, the Board and the Independent Regulatory Review Commission may receive little, if any, feedback and comments from this relevant constituency. Slot machine licensees are aware that they need to regularly check the *Pennsylvania Bulletin* for proposed regulations from the Board. However, vendor applicants, and vendors in general, represent a wide array of businesses that provide numerous types of goods and services. Moreover, some vendor applicants may not even be regulated by another government body in Pennsylvania. As a result, vendor applicants probably do not review the *Pennsylvania Bulletin* on a regular basis for changes to the Board's regulations. GGE believes that the Board should, if it has not done so already, contact all vendor applicants about the proposed rulemaking and provide 30 days for them to comment on the regulations.

Finally, there could be serious legal implications associated with this proposed rulemaking. In fact, the proposed regulations may conflict with due process requirements for vendor applicants, who are waiting for their vendor certification/registration. Under the proposed format, a vendor applicant would lose its privilege of doing business with slot machine licensee before it was permitted a hearing or other opportunity to challenge the Notice of Recommendation for Denial. Moreover, it appears problematic that the loss of this privilege would occur as a result of action by the Office of Enforcement Counsel, a prosecutorial arm of the Board, and not by the Board itself. Due to the preceding issues with the proposed rulemaking, GGE respectfully requests that the Board withdraw the rulemaking in its current form.

Richard Sandusky  
Director of Regulatory Review  
Pennsylvania Gaming Control Board  
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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,

A handwritten signature in black ink, appearing to read "Bryan P. Schroeder", with a long horizontal line extending to the right.

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

bps

cc: Arthur Coccodrilli, Independent Regulatory Review Commission (via Federal Express)