



TABLE MOUNTAIN RANCHERIA

TRIBAL GAMING COMMISSION

February 11, 2011

Chairwoman Tracie L. Stevens
National Indian Gaming Commission
1441 L St. N.W., Ste 9100
Washington D.C. 20005

Re: Commentary on Commission Regulations

Dear Chairwoman Stevens,

The Table Mountain Rancheria Gaming Commission would like to thank the National Indian Gaming Commission ("NIGC") for providing Tribal Governments, Tribal Gaming Commissions and the public with the opportunity to offer comments on issues identified in the NIGC's Notice of Inquiry.

As Tribal Gaming regulators of our Tribal Government's Gaming Operation, we have a great interest in protecting the integrity of Indian Gaming and look forward to this opportunity of sharing our comments and regulatory expertise in the spirit of fostering a good government-to-government relationship with the NIGC.

With regards to Part 542 – Class III Minimum Internal Controls, the NIGC's Class III MICS have had a positive impact on the Tribal Gaming Industry. The published MICS for Class III has created uniformity for Tribes whose State has adopted NIGC's Class III MICS as its base standard in its Tribal-State Compact. The NIGC Class III MICS had facilitated effective and efficient audits of our casino by the external auditors.

If the NIGC were to eliminate its Class III MICS, Tribes may find themselves in a protracted fight over a base standard for the Tribe's gaming operation. It also has the potential of causing most, if not all, California Tribes to be out of compliance with their Tribal-State Compact.

We urge the NIGC to continue with a review and updating process of the Class III MICS. Most of the proposed changes are extremely necessary for operations, control and efficiencies.

This review and updating process could be accomplished through a Tribal Advisory format, with updates disseminated via NIGC bulletins or advisory memorandums. The costs for the review and update process can be shared by those Tribes who elect to participate in a Class III MICS Tribal Advisory Committee.

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With respect to the other items that were identified in the NIGC's Notice of Inquiry, we believe that the following areas should be given priority.

Priorities

- **Part 502-Net Revenues & Management Contracts:** Table Mountain Rancheria believes that the NIGC does not have the authority to change the definition of "Net Revenue" that Congress set forth in 25 U.S.C. § 2707(9).¹

Notwithstanding the above, it is our belief that the NIGC may want to consider implementing regulations or advisory bulletins that clarifies the "Net Revenue" definition to ensure that it is consistent with GAAP principles. This, however, should be a low priority for the Commission.

With respect to Management Contracts, it is our position that the definition of Management Contract should not be expanded to include ancillary contracts or any other type of contract, such as slot lease agreements.

Expanding the definition of Management Contract to include ancillary and other types of contracts like slot lease agreements would not only infringe on the Tribe's sovereignty, but would also interfere with the Tribe's ability to make its own independent business decisions.

- **Part 514-Fees:** The Tribal Gaming Commission prefers to keep fees for fingerprints separate and the responsibility of the Tribal Gaming Commission.

Changing the definition of gross gaming revenue to be consistent with GAAP would be beneficial and would fulfill the goal of the NIGC in making the annual fee easier to calculate.

- **Part 518-Self Regulation:** The Tribal Gaming Commission agrees that the current process is burdensome and should be re-written to simplify the process of obtaining a certificate of self regulation.
- **Part 523-Gaming Ordinances:** The Tribal Gaming Commission believes that this is obsolete and should be removed.
- **Part 537-NOV:** The Tribal Gaming Commission agrees with establishing the change to a Late Payment System in lieu of a Notice of Violation. We also recommend that an appeal process be established that would allow for the removal of an NOV once the violation is corrected or resolved.

¹ Congress adopted IGRA that defines *net revenue* as: ("*net revenues*" means gross revenues of an Indian gaming activity less amounts paid out as, or paid for, prizes and total operating expenses, excluding management fees.) 25 USC §2703(9)

- **Part 556-Backgrounds and Licensing:** The Tribal Gaming Commission agrees that the pilot project should become regulation. We agree that Tribal Gaming Commissions should be able to fingerprint vendors, consultants and other non-key employees but not have to submit to the notification process as with key employees or primary management officials.
- **Part 559-Facility License:** The Tribe and Tribal Gaming Commission have adopted stringent provisions for its facility license that would ensure the gaming operation's compliance with our Tribal-State Compact and our Tribal Laws. Any further requirements by NIGC would be duplicative, unnecessary and burdensome. The Tribal Gaming Commission issues the Facility License based, in part, on its stringent provisions.

Proposed New Regulations

- Tribal Advisory Committees should consist of delegations that are divided by region. There should also be two separate working groups that address and work on regulations for Class II and Class III Gaming for each region.
- Any proposed changes to regulation should go through the Tribal Advisory Committee process. The process should include a review and comment period in an easily accessible manner for all tribes.
- Proposed changes to regulation should not create additional requirements or burdens for the Tribes. However, in cases where a Tribe is in need of "assistance" and "review" these services may be offered by the NIGC on a fee basis. These services could include fingerprint services for vendors and collateral contract agreements for review. These additional submissions by the Tribe and reviewed by the NIGC would be in the form of a fee base service provided by the NIGC and not as a matter of requirement.

In closing, we would like to congratulate the NIGC for taking on this long overdue enormous task. We look forward to a continued strong government-to-government working relationship with the NIGC. We appreciate the National Indian Gaming Commission's respect and deference to the Sovereignty of the Nation's Federally Recognized Tribes.

Thank you,



Beverly J. Hunter

Commission Chairperson

Table Mountain Rancheria Tribal Gaming Commission