



October 12, 2006

Phil N. Hogan, Chairman
National Indian Gaming Commission
1411 L. Street NW
Suite 9100
Washington, DC 20005

Re: Comments on Class II Classification Standards

Dear Chairman Hogan:

First let me thank you for allowing us to comment on the proposed regulation. As you are aware Nova Gaming has always strived to work very closely with NIGC in the development of our games and the operation of them on Tribal properties.

We worked with your staff in developing our game platform over approximately 18 months and incorporated many of their suggestions. We then received our first Opinion letter stating our entire Bingo system to be Class II on April 4, 2005.

Very soon afterwards we saw that we needed to ensure the integrity of our system going forward as we continued to enhance our software. In conjunction with your staff we originated a system where by we take new software releases to an independent lab. They then certify that we are still playing Bingo as in our first Opinion letter. They submit a letter to NIGC and then you opine once again on our newest software as Class II. We have done that for a total of four times now, referenced by four additional Opinion letters from your office. The most recent one dated August 18, 2006.

In commenting on the proposed rule I will outline the most difficult hurdles we see in implementing what is suggested. In addition my engineering staff will comment in another document regarding the many difficulties we see with the technical standards.

Let me first reference the four main areas I want to cover.

1. 546.4 (b) The size of the "game of bingo".
2. 546.6 The timing for enrollment, ball releases and play of the game.
3. 546.4 (j) A game winning prize must be 20% of the amount wagered.
4. 546.10 (e) (1) Certification of electronic aids must be completed within six months.

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In regard to the requirement that the game of bingo fill at least ½ of the total space available for display, this is very confusing. You state that the card shall be at least 4 square inches. Our card is that size so what else constitutes the game of bingo? Does the button panel since it has the daubing buttons? Does the help messages displayed around the game during use? Does the bingo call board? There needs to be some clarity as to what is included in this “game of bingo”. We think if we include all of the features we believe encompass the bingo game then we comply. However, we are concerned because there is a lot of room for vagueness in this requirement. I do not want to have to make very costly hardware changes to the cabinetry in order to meet some fuller definition.

The issue involving timing between enrollment and ball releases will make the game commercially unacceptable in our opinion. It appears that the rule is trying to say that a game should take 6 seconds. However, in the way you propose the play of the game it could and mostly likely will take upwards of fifteen seconds. There seems to be this myth that the playing of electronic bingo games at a faster pace allows the tribes to make as much money as slot machines. This is simply not true. We operate our games along side slot machines at present. Our games play very close to the same speed, but generate less than half the revenue in most cases. The fact that the players interact with the game by requiring multiple button presses, automatically slows it down today and makes it very different from slot machines. If you slow the game down to three times the speed of a slot as you propose, the player will simply get bored and leave, thus further reducing the tribal revenues. A player comes into a gaming environment with a predetermined amount of money to play with. In most cases that is all they will spend and it is our job to give them a fair amount of entertainment time for that money. If you slow the games down too much they will never spend their predetermined amount because they become bored and leave. Why should an arbitrary amount of time be placed on the bingo game as long as you have the element of players playing against each other and not the machine? It is clear in our present NIGC approved games that players are playing against each other and not a machine.

The proposal that the game winning prize must be at least 20% will require a high level and complete redesign of our bingo games. It is stated that the game winning prize should have “significant” value. Is not significant value a term for interpretation? We presently place 5% of the amount wagered on the game winning prize. In addition we have more winning patterns than any other Class II product on the market. We try to distribute “significant” value across all of our pays in order to encourage players to play our games in light of the other bingo elements that make the games more cumbersome to play. In addition this allows many more winners than just the game closing winner. As you must know there is a fine science to determining how much playing time to allow a player vs. his dollars invested. We have expended great financial resources in designing our math pay tables across some 70 game titles of various denominations. It will take us many months and man hours to recalculate this math with no assurance that any of it will play.

Finally, regarding the six month compliance requirement, we simply want you to know the burden of trying to achieve such an aggressive schedule. First, as you well know, we worked together for almost 18 months on our first NIGC letter that you issued. There were a lot of meetings in DC and a lot of phone conversations as we continued to make changes to meet the NIGC Class-II criteria. In order for us to now change in accordance with the proposed regulation there will be a lot of software and hardware changes. It will take us longer than 6 months to make the changes. We first have to redesign all of our game themes (again over 70 game titles), redesign the currently NIGC approved Bingo Engine, and redesign the cabinet. Then we can submit to the lab and hope that they are not backlogged with everyone else submitting at the same time in addition to their other business that is not Class II related. The labs are very helpful but they cannot disregard their other projects for us.

These are the four major areas but I would like to express some general comments regarding your proposal. I have attended many of the general sessions you held around the country and I was in attendance at your hearing in Washington, DC. A couple of things you keep saying is the line between Class II and Class III should be clearer. Then you suggest that players need to know they are playing bingo. I think I can help with both concerns.

Our company and I personally are both thoroughly investigated and then we undergo an extensive licensing process with every Tribe with which we do business. Then our games are reviewed and must be approved by the a) Independent Testing Laboratory, b) NIGC and c) Tribal gaming commission before we can place them in service. After all of this our games are continuously inspected on the gaming floors. The Independent Testing Laboratory calculates the digital signature (secure Hashing Algorithm, SHA-1). This is used by many Federal agencies, including the NSA, to verify the integrity of software. This allows Gaming Commissioners a means of verifying the version of software we are operating. This is a clear process of insuring what you as NIGC have approved is presently being operated at the casino level. In addition many Gaming Commissioners come onto the floors and test if my games are playing stand alone or in concert with other players. If you disconnect my games from the bingo server they will not operate. These are both ways to clearly distinguish between Class II and Class III. A Class III slot will operate stand alone and does not have to be connected to any server or another game. The lines are very clear already if you know how to look at the right distinctions. There is not a quarter of any year that goes by that I am not tested in this way already.

As far as players knowing they are playing bingo. If anyone spends any time on a tribal property they will see how obvious it is to a player they are playing bingo. It is clear to us because we are on casino floors where Class II and Class III exist together. There are so many distinctions between the two I will not try to elaborate. The player clearly interacts with our bingo game multiple times where there is no requirement in the play of a slot machine. Our games have all of the bingo card, bingo call boards, and daubing characteristics that are required in the play of bingo. If there is still the belief that players are confused, I have no objections to posting additional signage stating you are playing bingo and explaining the game for that single individual you feel may be confused.

After reviewing my comments, I implore you to strongly reconsider these proposed regulations. Nova Gaming has expended millions of dollars creating a bona fide Class II product with NIGC consultation. If you go forward with these regulations I fear a company I started with the sole purpose of providing a Class II product will exist no more. We presently operate close to 4,000 games and none of these will be compliant. The greater tragedy is they were compliant and the lines were not confused as of Nova's August 18, 2006 opinion letter from NIGC.

Why can we not continue to require vendors to receive an independent lab report (as we did). Then submit the game to NIGC for an opinion (as we did and continue to do). Then have NIGC issue a certification sticker to be placed on each machine, only after the on site software version is verified. And finally hold periodic field inspections of the certificates and software versions and if found non-compliant have the Department of Justice file charges against the vendor (which they already have the power to do).

As was said at your public hearing many times, let us not create a problem to fit this proposed regulation. If the state and federal regulators are seeing unclear lines between Class II and Class III I suggest they spend some time with manufactures and Tribal regulators to help clear their understandings.

After you have time to review these comments I would respectfully request a meeting at your convenience in Washington to elaborate further.

Thanks for your time and consideration.

Sincerely,



Michael E. Fletcher
Chief Executive Officer