



COMANCHE NATION GAMING COMMISSION
P.O BOX 1769 LAWTON, OK 73502
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February 11, 2011

Via Email Transmission: reg.review@nigc.gov

Tracie Stevens, Chairman
National Indian Gaming Commission
1441 L Street, NW
Washington, DC 20005

RE: Notice of Inquiry

Dear Chairman Stevens:

I am writing this letter on behalf of the Comanche Nation Gaming Commission ("CNGC") and offer the following comments in response to the National Indian Gaming Commission's ("NIGC") Notice of Inquiry and Request for Information. CNGC appreciates the Notice of Inquiry process as an excellent mechanism for the NIGC to use in soliciting the views of Indian Country as it undertakes a comprehensive review of the regulations promulgated pursuant to the Indian Gaming Regulatory Act ("IGRA"). Although CNGC intends to provide detailed comments to any specific regulatory changes the NIGC may propose, CNGC would like to propose a conceptual framework for NIGC to consider in any comprehensive revision and has also identified certain regulations it believes should be considered priorities in the revision process for the NIGC.

Conceptual Framework for Comprehensive Revision

The Comanche Nation Gaming Commission serves as primary regulator of class II and class III gaming within the Comanche Nation, working diligently and effectively to protect the integrity of gaming at Comanche Nation gaming facilities, while ensuring the accountability and proper use of vital tribal gaming revenue. Most gaming tribes provide a similar level of sophisticated gaming regulation. In that regard, CNGC believes that it and other tribal gaming commissions could be benefited to a greater degree by the efforts of the NIGC, were such efforts focused on support mechanisms for tribal gaming commissions, rather than investigation and enforcement. For instance, a meaningful revision of the self-regulation certification process, facilitation of information sharing between tribal regulators, processing of non-key employee and vendor fingerprints, and increased training opportunities would ultimately be better uses for the substantial fees paid to the NIGC annually by the tribes. This is not to say that investigation and enforcement would never be required at a federal level, but rather, that such involvement should be a last resort and certainly secondary to the tribal regulatory authority.



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In short, tribal gaming commissions serve on the front-lines of licensing and enforcement every day and know best how to protect Indian gaming as a means for generating and protecting tribal revenue and the public, ensuring a fair game is conducted by both operators and patrons. CNGC respectfully requests that, as the NIGC reviews and recommends revisions to various gaming regulations, it does so with a recognition of the maturity of today's tribal gaming regulatory environment, and an eye towards supporting the primary role of tribal regulatory bodies.

In addition, CNGC recommends that the process for revising the regulations currently under review pay the utmost respect to the government-to-government relationship between the United States and tribes, that a combination of negotiated rule-making and tribal advisory committees ("TAC") be utilized to assist in the consultation and development of revisions, and that tribal participants, at all times during the revision process, be free to seek input, counsel, and recommendations from other tribal leaders, tribal attorneys, industry professionals, and the like. CNGC believes that a sustained commitment to genuine government-to-government consultation will achieve the best results for all concerned parties.

Part 502 – Definitions

For Net Revenue definitions, NIGC should be consistent with GAAP. GAAP is the industry standard and NIGC regulations should use industry standard terminology. In addition, a regulation should be promulgated for "allowable uses". A tribe's use of "free play" for promotions, for instance, should not be identified as revenue: it is not revenue to the tribe, rather it is the tribe's own money used for promotional purposes. The CNGC believes the NIGC should empanel a TAC to review and recommend revisions to Part 502.

Part 514 – Fees

CNGC recommends that the NIGC base a tribe's fee calculation on the gaming operations fiscal year. This would ease the calculation and eliminate later revision. Late payment systems utilizing a set rate or a percentage of the fee owed, with a specific deadline prior to any late fee or enforcement action would work well. The external audit deadline would be a good deadline for the NIGC fee deadline since it is already an established date. The NIGC fees could then be paid off of audited financials. In any event, the fingerprint processing fee should be kept separate and billed at cost.

Part 542 - Class III MICS

CNGC prefers the class III MICS be struck and that a TAC of geographically diverse subject matter experts be assembled to advise on the development of recommended guidelines. The impact on particular compacts could be addressed through that process.



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Part 543 – Class II MICS

CNGC recommends that a TAC of subject matter experts be assembled to provide recommendations on revisions and advice to the NIGC in administration of the regulations once adopted. The proposed draft could start with the existing draft. Representation on the TAC should consist of class II MICS experts and should also be weighted in favor of greater representation from regions with a high volume of class II gaming, such as the Oklahoma City and Tulsa regions.

Part 547 – Minimum technical standards for gaming equipment used with the play of class II games

CNGC recommends that the NIGC start with the proposed draft and that a TAC, as outlined above, develop the revisions. The TAC should be selected from the tribes. The revision should allow for comments of affected tribes.

Part 556 – Background Investigations for Licensing

Since the majority of the tribes are on the Pilot program now, CNGC recommends that the program be formalized into regulations. This will allow all the tribes to participate in the program and would finish streamlining the licensing requirements. A TAC should be formed to develop the regulation. As part of developing such regulations, the NIGC, with the assistance of the TAC, should adopt regulations to allow tribes to submit fingerprint cards for vendors, consultants, and other non-employees. This would give the operations and regulators more information on whether there have been issues in the past with other tribes, such as a license revocation, that might not otherwise be available to the tribal decision-maker. The NIGC should work towards helping tribes achieve self-regulation through the streamlining and simplification of the currently very burdensome process.

Part 559 – Facility License Notifications, Renewals, and Submissions

CNGC expresses concern about the lack of consultation regarding the Facility License regulations and the regulations themselves. These should be stricken and replaced by a set of recommended guidelines developed with the assistance of a TAC made up of subject matter experts.

Sections 571.1 -571.7

CNGC recommends that the NIGC revise the regulations to include off-site locations even if owned or controlled by third parties. The NIGC should have access to all relevant records of a gaming operation, no matter their location.



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Part 573 – Enforcement

CNGC strongly supports the development of a process for the Withdrawal of an NOV. The Chairperson should have final say on such withdrawal. CNGC recommends a TAC should be used to review and finalize the regulation.

Tribal Advisory Committee

A TAC or negotiated rulemaking should be used whenever a new regulation is proposed by the NIGC. This would allow the tribes ample time and opportunities for input on the proposed regulation.

Communication policy or regulation identifying when and how the NIGC communicates with the Tribes.

CNGC recommends that the NIGC should communicate with all interested parties and do so in writing, when possible. NIGC should always keep the primary regulator, the tribal gaming commission, informed and where issues involve broad issues like the promulgation of new regulations or an upcoming tribal consultation, tribal government officials should be communicated with as well. In sum, whenever possible, all interested tribal parties should be notified of the communication through written correspondence.

Thank you for the opportunity that you have afforded to tribes to respond to your inquiries. We look forward to working with you in the coming months to develop new regulations to benefit our collective efforts to enhance and protect the integrity of Indian gaming. If you have any questions concerning these issues, please contact me at (580) 595-3300.

Sincerely,

Jill Peters, Executive Director
Comanche Nation Gaming Commission