

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	2/17/2011
File #	2011-01190

**STATE OF FLORIDA
DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUEL WAGERING**

DIGIDEAL CORPORATION,

Petitioner,

v.

CASE NO. 2011002903

**DEPARTMENT OF BUSINESS &
PROFESSIONAL REGULATION, DIVISION
OF PARI-MUTUEL WAGERING,**

VW 2011-018

Respondent.

**FINAL ACTION ON PETITION FOR
EMERGENCY VARIANCE OR WAIVER**

The Department of Business & Professional Regulation, Division of Pari-Mutuel Wagering (Division) files this final action on DigiDeal Corporation's "Petition for Emergency Variance or Waiver from Rule 61D-14.042, F.A.C.," pursuant to Section 120.542, Florida Statutes.

ISSUE

1. Petitioner, DigiDeal Corporation, requests that it be granted a waiver or variance from the electro-mechanical metering requirements of Rule 61D-14.042(1), Florida Administrative Code (F.A.C.), so that it may to market its Digital Table System – Virtual (DTS-V) slot machine in Florida. Petitioner's DTS-V slot machine uses state-of-the art electronic metering (rather than electro-mechanical metering), but in all other respects fully complies with or exceeds the requirements of Rule 61D-14.042, F.A.C.

FACTS

2. Petitioner is a Washington corporation which manufactures gaming devices for use in casinos and pari-mutuel facilities throughout the country; it is a Florida licensed slot machine

manufacturer under Chapter 551, Florida Statutes, authorized to sell slot machines to licensed Florida slot machine facilities.

3. Pursuant to Section 551.103, Florida Statutes, the Division is authorized to regulate slot machine gaming and generally administer Chapter 551, Florida Statutes.

4. On January 18, 2011, Petitioner filed a "Petition for Emergency Variance or Waiver" (Petition) from the provisions of Rule 61D-14.042(1), F.A.C., requiring electro-mechanical meters in slot machine authorized for sale and use in Florida, which requirement would prevent Petitioner from marketing its DTS-V slot machine to Florida licensed slot machine facilities, as Petitioner's DTS-V slot machine uses electronic (not electro-mechanical) metering. The Division has treated the Petition as a request for waiver of the electro-mechanical metering requirements of Rule 61D-14.042(1), F.A.C., and on January 28, 2011, published notice of its receipt in Volume 37, Issue 4 of the *Florida Administrative Weekly* (FAW).

5. The FAW notice required that any substantially affected person file a petition to intervene within 5 business (see Uniform Rule 28-106.103, F.A.C.) days of its publication, which made February 4, 2011, the last day to respond.

6. On February 2, 2011, Shuffle Master, Inc., a licensed slot machine manufacturer, and Gulfstream Park Racing Association, Inc. (Gulfstream), a licensed pari-mutuel slot machine facility in Hallandale, Florida, filed comments on the requested waiver, see Uniform Rule 28-104.003, F.A.C. The same date, they also filed petitions to intervene, see Uniform Rule 28-106.205, F.A.C.

7. On February 7, 2011, Petitioner filed objections to Shuffle Master's and Gulfstream's petitions to intervene, asserting they did not have requisite standing to intervene under *Agrico Chem. Co. v. Dep't of Envtl. Reg.*, 406 So. 2d 478 (Fla. 2nd DCA 1981), *rev. denied*, 415 So. 2d 1359 & 1361 (Fla. 1982), and related cases.

8. Gaming Laboratories Incorporated (GLI), an independent testing laboratory licensed by the State of Florida, conducted testing of Petitioner's DTS-V to determine compliance with applicable Florida slot machine requirements.

9. By letter of December 10, 2010, GLI informed the Division that Petitioner's DTS-V slot machine generally met Florida's requirements for slot machines set forth in Chapter 61D-14, F.A.C., except that the machine did not comply with Rule 61D-14.042(1), F.A.C., which requires that each slot machine in Florida have an "electro-mechanical meter [to] measure total credits into the slot machine [and an] electro-mechanical meter [to] measure total credits out of the slot machine." In this regard, GLI wrote in the comments section of its letter:

The device does not provide support for electromechanical meters. The device does include two sets of electronic meters which record the values required above. Additionally, the device supports connectivity to the facility based monitoring system and will provide the electronic meter information accordingly.

10. Petitioner's DTS-V slot machine, with its state-of-the-art electronic metering, has already been certified, accepted, and authorized for use in other states in which Petitioner does business. Its electronic metering provides all the functions and records all of the same values as the electro-mechanical meters specified by Rule 61D-14.042(1).

11. Petitioner has expended significant sums of money in developing its DTS-V slot machine with the latest technologies. In order to retrofit its DTS-V slot machine with the two electro-mechanical meters required by Rule 61D-14.042(1), an older technology than the electronic meters currently installed in its DTS-V slot machines, Petitioner would be forced to expend considerable amounts of additional time and resources (up to six months and \$170,000) to specially retrofit Florida-bound DTS-V slot machines. The technological challenge involved in such a retrofitting would cause significant hardship and delay, and deprive Petitioner of substan-

tial revenue and business activity during the significant amount of time required to retrofit Petitioner's Florida-bound DTS-V slot machines.

CONCLUSIONS OF LAW

12. Section 551.103(1), Florida Statutes, provides in relevant part:

(1) The division shall adopt . . . all rules necessary to implement, administer, and regulate slot machine gaming as authorized in this chapter. Such rules must include:

....
(c) Procedures to scientifically test and technically evaluate slot machines for compliance with this chapter. The division may contract with an independent testing laboratory to conduct any necessary testing under this section. . . .

(e) Procedures for regulating, managing, and auditing the operation, financial data, and program information relating to slot machine gaming that allow the division . . . to audit the operation, financial data, and program information of a slot machine licensee, as required by the division . . . and provide the division . . . with the ability to monitor, at any time on a real-time basis, wagering patterns, payouts, tax collection, and compliance with any rules adopted by the division for the regulation and control of slot machines operated under this chapter. Such continuous and complete access, at any time on a real-time basis, shall include the ability of . . . the division . . . to suspend play immediately on particular slot machines if monitoring of the facilities-based computer system indicates possible tampering or manipulation of those slot machines or the ability to suspend play immediately of the entire operation if the tampering or manipulation is of the computer system itself. . . .

[Emphasis added.]

13. Subsection (1) of Rule 61D-14.042, F.A.C., provides:

There shall be a minimum of two (2) electro-mechanical meters contained in each slot machine. One electro-mechanical meter shall measure total credits into the slot machine. The other electro-mechanical meter shall measure total credits out of the slot machine.

In contrast, subsections (2)–(5) of Rule 61D-14.042 specify additional electronic meters that each slot machine must have – (2) accounting meters; (3) occurrence meters; (4) least amount bet and amount won meters; and (5) double-up meters for slot machines that offer a double-up

option. Subsection (6) then requires that the electronic meters specified by subsections (2)-(4) "shall communicate their information to the facility based monitoring system."

14. Petitioner's DTS-V slot machine and its electronic metering satisfy all of the safeguards and provide all of the information required by the foregoing statutes and rules.

15. Section 120.542, Florida Statutes, provides in relevant part:

(1) Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.

(2) Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship. . . . For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. . . .

(3) . . . The uniform rules shall include procedures for the granting, denying, or revoking of emergency and temporary variances and waivers. . . .

(5) A person who is subject to regulation by an agency rule may file a petition with that agency, with a copy to the committee, requesting a variance or waiver from the agency's rule. . . .

See also Uniform Rule 28-104.004, F.A.C., which governs petitions for emergency variance or waiver and provides in relevant part:

(2) In addition to the other requirements of Section 120.542(5), F.S., . . . [an emergency] petition shall specify:

- (a) The specific facts that make the situation an emergency; and
- (b) The specific facts to show that the petitioner will suffer an immediate adverse effect unless the variance or waiver is issued more expeditiously than the time frames provided in Section 120.542, F.S.

16. A "Waiver" is defined in Section 120.52(22), Florida Statutes, as "a decision by an agency not to apply all or part of a rule to a person who is subject to the rule."

17. Finally, Petitioner is entitled to an expedited review and issuance of an emergency waiver. Petitioner's DTS-V slot machine is ready for the market, and further delay in getting it

certified for use in Florida will cause Petitioner tangible and immediate loss. Petitioner would suffer immediate adverse effects in the form of lost revenue, incurred costs from contingency arrangements and overall business uncertainty if the waiver is not issued more expeditiously than the ordinary time frame of 90 days.

ORDER

WHEREFORE, it is hereby ORDERED:

1. Shuffle Master's and Gulfstream's petitions to intervene shall be and are hereby DENIED.
 2. The electro-mechanical metering requirements of Rule 61D-14.042(1), F.A.C., shall be and are hereby WAIVED, but only as to Petitioner's above described DTS-V slot machine.
- DONE AND ORDERED this 17th day of February, 2011, in Tallahassee, Florida.



MILTON CHAMPION, DIRECTOR
Division of Pari-Mutuel Wagering
Department of Business & Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399-1035

NOTICE OF RIGHT TO APPEAL UNLESS WAIVED

Unless expressly waived, any party substantially affected by this final order may seek judicial review by filing an original Notice of Appeal with the Clerk of the Department of Business and Professional Regulation, and a copy of the notice, accompanied by the filing fees prescribed by law, with the clerk of the appropriate District Court of Appeal within thirty (30) days of rendition of this order, in accordance with Rule 9.110, Florida Rules of Appellate Procedure, and Section 120.68, Florida Statutes.

CERTIFICATE OF SERVICE

I hereby certify this 17th day of February, 2011, that a true copy of the foregoing

"Final Action" has been provided by both U.S. Mail and email to:

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for 

RONDA BRYAN, AGENCY CLERK

Department of Business & Professional Regulation

Copy furnished to:

Michael A. Martinez, Deputy General Counsel

Joseph M. Helton, Jr., Chief Attorney, Division of Pari-Mutuel Wagering

FILED	
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**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUEL WAGERING**

DIGIDEAL CORPORATION,

Petitioner,

v.

VW 2011-018

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION, DIVISION
OF PARI-MUTUEL WAGERING,

Respondent.

**PETITION FOR EMERGENCY VARIANCE OR WAIVER
FROM RULE 61D-14.042, F.A.C.**

1. Petitioner, DigiDeal Corporation, is a Washington corporation, doing business as DigiDeal, located at 5123 East Third Avenue, Spokane Valley, Washington 99212. For the purpose of this variance request, Petitioner's address is that of counsel, Rutledge, Ecenia, & Purnell, P.A., located at 119 South Monroe Street, Suite 202, Tallahassee, Florida 32301.

2. Petitioner manufactures gaming devices for use in casinos and pari-mutuel facilities throughout the country. It has developed a new innovative slot machine device, known as Digital Table System – Virtual ("DTS-V" or "device"), which is already in use in other states and is ready for use in Florida. In accordance with Florida regulatory requirements, Petitioner has submitted a request to the Department of Business & Professional Regulation, Division of Pari-Mutuel Wagering ("Division") for certification of the device so that it can be installed by pari-mutuel permitholders at facilities in this state.

3. Sections 551.103 and 551.122, Florida Statutes, authorize the Division to promulgate rules regarding the implementation, administration and regulation of slot machine gaming, including procedures for testing and evaluating slot machines. Additionally, section 551.103(1)(c) further authorizes the Division to contract with an independent testing laboratory to conduct the necessary testing. The Division's rules to implement these statutory provisions are set forth in Chapter 61D-14, Florida Administrative Code.

4. Gaming Laboratories Incorporated ("GLI"), an independent testing laboratory, conducted testing of the DTS-V to determine compliance with applicable requirements.

5. In a letter dated December 10, 2010, GLI informed the Division of the results of its testing of the DTS-V device. In its letter, GLI advised the Division that the DTS-V device "successfully meets the requirements" of Rule 61D-14, with the possible exception of two provisions.

6. First, GLI cited Rule 61D-14.042(1), Florida Administrative Code, which states the following:

There shall be a minimum of two electro-mechanical meters contained in each slot machine. One electro-mechanical meter shall measure total credits into the slot machine. The other electro-mechanical meter shall measure total credits out of the slot machine.

7. In the comments section of its letter, GLI stated the following with regard to compliance with Rule 61D-14.042(1):

The device does not provide support for electromechanical meters. The device does include two sets of electronic meters which record the values required above. Additionally, the device supports connectivity to the family based monitoring system and will provide the electronic meter information accordingly.

8. Neither the statute nor the rule sets forth a definition of an “electro-mechanical meter.”¹ The device’s innovative, state-of-the-art electronic metering, which is accepted and in use in other states in which Petitioner already does business, eliminates the need for archaic mechanical components. As reflected in the GLI letter, the device electronically records all of the required values.

9. In the closing of its letter, GLI requested guidance from the Division on how to proceed with Petitioner’s submission in regards to requirements of the agency rules.² According to the Division, to date no response has been sent to GLI on this matter.

10. Petitioner asserts that the current rule is subject to a reasonable interpretation in favor of certifying the device as fully compliant with all applicable requirements. However, the Division has indicated the potential need to engage in rulemaking to clarify the archaic anomalies and ambiguities in the current rules regarding electromechanical, or so-called “hard,” meters. Yet, as of January 4, 2011, any such effort is now indefinitely prohibited under Executive Order 11-01, which suspends all rulemaking by agencies under the Governor’s purview. Significantly, the Executive Order’s express and explicit purpose is to cut down on regulations that impose “burdensome costs on businesses,” “obsolete and unnecessarily burdensome requirements,” and “needless costs and requirements” on businesses in this state.

¹ Rule 61D-14.042(6) states that:

All electronic meters required by this rule, except those described in subsection (5), shall communicate their information to the facility based monitoring system. [Emphasis added.]

This provision arguably creates an ambiguity as to when and/or where an electronic meter (without a mechanical component) can be used.

² The second issue raised in the GLI letter is that the DTS-V device does not currently support the illumination of a tower light, as referenced in Rule 61D-14.044(5)(b) and (14)(d). However, GLI noted that the device is a hosted device and such host would be “on hand to be quickly alerted to any program error or authentication mismatch.” Additionally, the referenced rule only requires the illumination of a tower light “when one is present.” In the course of discussions regarding the GLI letter, the Division has represented to Petitioner that the device satisfies the tower light rule requirement. In reliance upon that representation, this Petition requests only the emergency waiver or variance from a rigid, literal interpretation of Rule 61D-14.042.

11. Any delays resulting from further debate or disagreement with respect to the proper interpretation of the rule requirements and/or any rulemaking to correct archaic language would result in an immediate and significant adverse impact on Petitioner.

12. As reflected by the GLI letter, the device provides all of the safeguards and requirements set forth in the statute and rule. However, archaic and ambiguous language in the rule referencing electromechanical meters could delay or preclude prompt certification of the device. To avoid unnecessary delay, Petitioner is requesting an emergency variance or waiver from Rule 61D-14.042(1), Florida Administrative Code, pursuant to Section 120.542, Florida Statutes, and Rule 28-104.002, Florida Administrative Code ("Uniform Rules of Procedure").

13. A "Variance" is defined under Section 120.52(21), Florida Statutes, as "a decision by an agency to grant a modification to all or part of the literal requirements of an agency rule to a person who is subject to the rule."

14. A "Waiver" is defined under Section 120.52(22), Florida Statutes, as "a decision by an agency not to apply all or part of a rule to a person who is subject to the rule."

15. Section 120.542(2), Florida Statutes, provides the following:

Variations and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.

16. "Substantial hardship" is defined under that subsection as a "demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance."

17. For an emergency variance or waiver, under Rule 28-104.004, Florida Administrative Code, the request must set forth the facts that make it an emergency and show that the petitioner will suffer an "immediate adverse effect" unless the variance or waiver is issued more expeditiously than the ordinary time frame.

18. Here, the purpose of the underlying statute, Sections 551.102(8) and 551.103, Florida Statutes, will be and has been achieved by other means than what a literal interpretation of the archaic language in Rule 61D-14.042(1), Florida Administrative Code, could be construed to require. As recognized by the Division's own testing laboratory, GLI, and discussed above, the device includes two sets of electronic meters, which provide all of the functionality and measurements of an electromechanical meter. Additionally, the device supports connectivity to the family based monitoring system and will provide the electronic meter information accordingly, as required by statute and rule.

19. A literal construction of the existing rule to require hard metering would create a substantial economic and technological hardship for Petitioner, particularly in these difficult economic times. Petitioner has already expended significant sums of money in developing the new DTS-V device in line with the latest technologies. It is certified and already being effectively utilized in other states. In order to bring its new product into compliance with an esoteric, hard metering requirement, Petitioner would be forced to expend considerable amounts of additional time and resources (up to six months and \$170,000) to specially retrofit Florida-bound devices with antiquated equipment that Division staff themselves has conceded is outdated and obsolete. The technological challenge involved in such a retrofitting would cause significant hardship and delay. The resulting delay in Petitioner's ability to bring the device to market in Florida would deprive Petitioner of substantial revenue and business activity each day that passes.

20. Even assuming *arguendo* that a rigid interpretation requiring hard metering is even defensible, strict adherence by the Division to an antiquated hard metering requirement in the face of technological developments and overwhelming compliance would violate principles

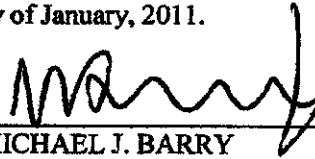
of fairness. It would be the epitome of technicalities – elevating form over substance. As stated earlier, the presumptively problematic language is already slated for repeal due to its obvious obsolescence. Applying a hyper-technical interpretation would be particularly unfair and inimical here, where the agency acknowledges the dubious requirement but is hand cuffed in pursuing its repeal because of the executive order expressly issued to cut down on needless and obsolete regulatory burdens on business.

21. Finally, as stated herein, Petitioner is entitled to an expedited review and issuance of an emergency variance or waiver. The device is ready for the market, and each new day the device is mired in regulatory process represents another day of tangible and immediate loss. As such, Petitioner would clearly suffer immediate adverse effects in the form of lost revenue, incurred costs from contingency arrangements and overall business uncertainty if the variance or waiver is not issued more expeditiously than the ordinary time frame of 90 days.

22. The request submitted in this Petition is supplemental to any other relief that is or may become available under state law.

WHEREFORE, based on the foregoing and pursuant to Section 120.542, Florida Statutes, and Rule 28-104.002, Florida Administrative Code, Petitioner requests the Division to promptly grant an emergency variance or waiver from Rule 61D-14.042, Florida Administrative Code, and to further execute any necessary action or direction in furtherance of securing the prompt certification of Petitioner's DTS-V device.

RESPECTFULLY SUBMITTED this 18th day of January, 2011.



MICHAEL J. BARRY

Florida Bar Number 646911

GARY R. RUTLEDGE

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FILED	
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DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUEL WAGERING

DIGIDEAL CORPORATION,

Petitioner,

v.

Case No. VW 2011-018

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION, DIVISION
OF PARI-MUTUEL WAGERING,

Respondent.

GULFSTREAM'S PETITION TO INTERVENE

COMES NOW, Gulfstream Park Racing Association, Inc. d/b/a Gulfstream Park Racing and Casino ("Gulfstream"), pursuant to Rule 28-106.205, F.A.C., and files this Petition to Intervene, and says:

1. Gulfstream is a pari-mutuel permitholder and is also licensed to conduct slot machine gaming pursuant to Chapter 551. Its address is 901 South Federal Highway, Hallandale, FL 33009. For purposes of this proceeding, its address is that of the undersigned counsel.

2. Rule 28-106.205, F.A.C. provides in pertinent part that intervention in an administrative proceeding is appropriate if "the substantial interests of the intervenor are subject to determination or will be affected through the proceeding." (Emphasis added).

3. As a pari-mutuel permitholder licensed to conduct slot machine gaming, Gulfstream is required to operate a "Facility Based Monitoring System" to communicate with

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slot machine meters operating at its facility. Rule 61D-14.001(9), F.A.C. Gulfstream also has a significant pecuniary interest in ensuring that the meters installed in slot machine games certified for play in this state are sufficiently reliable to protect the integrity of slot machine gaming in Florida. It is unclear in DigiDeal's petition what meters would now be acceptable in this state if DigiDeal's petition is granted. If the agency grants DigiDeal a waiver or variance from the electro-mechanical or "hard" meter requirement of the Rule, such action will constitute a de facto amendment to or repeal of the Rule because the meter requirement affects DigiDeal the same as it affects all other manufactures regulated by the Rule.

4. Moreover, it has been recognized that administrative action taken against one member of the pari-mutuel industry that involves an interpretation or application of the rules regulating pari-mutuel gaming almost necessarily affects all members of the industry. See Division of Pari-Mutuel Wagering v. Investment Corp. of Palm Beach, 747 So. 2d 374, 384 (Fla. 1999)("It must be observed that under circumstances... involving such a unique industry having very limited participants engaged in almost identical operations, declaratory statements involving one would almost invariably be of interest to others in the very limited group.").

5. Accordingly, Gulfstream is substantially affected by the outcome of this proceeding and should be accorded intervenor status under Rule 61D-14 042, F.A.C.

WHEREFORE, Gulfstream respectfully requests entry of an order granting it status as an intervenor in this proceeding.

RESPECTFULLY SUBMITTED this 2nd day of February, 2011.


CYNTHIA S. TUNNICLIFF

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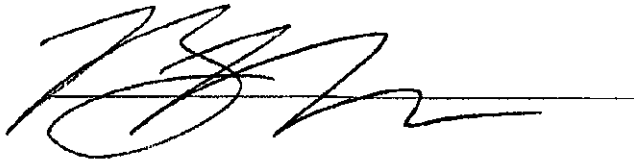
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished,
by U.S. Mail, to MICHAEL J. BARRY, ESQUIRE, and GARY R. RUTLEDGE, ESQUIRE, of
Rutledge, Ecenia & Purnell, P.A., Post Office Box 551, Tallahassee, Florida 32302, this 2nd
day of February, 2011.



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DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUEL WAGERING

DIGIDEAL CORPORATION,

Petitioner,

v.

Case No. VW 2011-018

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION, DIVISION
OF PARI-MUTUEL WAGERING,

Respondent.

SHUFFLE MASTER'S PETITION TO INTERVENE

COMES NOW, Shuffle Master, Inc., pursuant to Rule 28-106.205, F.A.C., and files this
Petition to Intervene, and says:

1. Shuffle Master, Inc. ("Shuffle Master") is a slot machine manufacturer licensed pursuant to Chapter 551, Florida Statutes. Its address is 1106 Palms Airport Drive, Las Vegas, NV 89119. For purposes of this proceeding, its address is that of its undersigned counsel.

2. Rule 28-106.205, F.A.C. provides in pertinent part that intervention in an administrative proceeding is appropriate if "the substantial interests of the intervenor are subject to determination or will be affected through the proceeding." (Emphasis added)

3. Shuffle Master and the Petitioner, DigiDeal, are slot machine manufacturers and competitors in this state. Both are regulated by Rule 61D-14.042, F.A.C. (the "Rule"). If the agency grants DigiDeal a waiver or variance from the electro-mechanical or "hard" meter requirement of the Rule, such action will constitute a de facto amendment to or repeal of the

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Rule because the meter requirement affects DigiDeal the same as it affects all other manufactures regulated by the Rule. Shuffle Master will be placed at a competitive disadvantage in this state if DigiDeal's petition is granted because the slot machines Shuffle Master manufactures for the Florida market have been equipped with the more expensive hard meters required by the Rule.

4. Moreover, it has been recognized that administrative action taken against one member of the pari-mutuel industry that involves an interpretation or application of the rules regulating pari-mutuel gaming almost necessarily affects all members of the industry. See Division of Pari-Mutuel Wagering v. Investment Corp. of Palm Beach, 747 So. 2d 374, 384 (Fla. 1999) ("It must be observed that under circumstances... involving such a unique industry having very limited participants engaged in almost identical operations, declaratory statements involving one would almost invariably be of interest to others in the very limited group").

5. Accordingly, Shuffle Master is substantially affected by the outcome of this proceeding and should be accorded intervenor status under Rule 61D-14.042, F.A.C.

WHEREFORE, Shuffle Master, Inc., respectfully requests entry of an order granting it status as an intervenor in this proceeding.

RESPECTFULLY SUBMITTED this 2nd day of February, 2011.



CYNTHIA S. PUNNICLIFF

Florida Bar Number: 0134939

BRIAN A. NEWMAN

Florida Bar Number: 0004758

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished,
by U.S. Mail, to MICHAEL J. BARRY, ESQUIRE, and GARY R. RUTLEDGE, ESQUIRE, of
Rutledge, Ecenia & Purnell, P.A , Post Office Box 551, Tallahassee, Florida 32302, this 2nd
day of February, 2011.

