

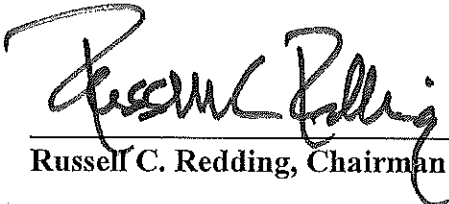
**BEFORE THE PENNSYLVANIA
STATE HORSE RACING COMMISSION**

IN RE: :
RULES OF ADMINISTRATIVE PRACTICE & :
PROCEDURE - : **Administrative Docket 2018-5**
INTERVENTION PROCEDURES :
(Temporary Regulation) :

ORDER

AND NOW, this 26th day of June, 2018, in accordance with its general jurisdiction to regulate all pari-mutuel horse racing activities, including the rules of racing, and pursuant to its authority set forth in §9311(h) of the Racing Act (3 Pa. C. S. §9311(h)) (relating to the adoption of temporary regulations), the Commission hereby adopts the following temporary regulation under its rules of Administrative Practice and Procedure governing intervention procedures, as fully set forth in the attached Annex A. This Order and the attached Annex A adopting the temporary regulation shall be published in the *Pennsylvania Bulletin* and shall be posted on the Commission's website. This temporary regulation shall become effective upon publication.

**BY THE PENNSYLVANIA
STATE HORSE RACING COMMISSION:**



Russell C. Redding, Chairman

Annex A

PENNSYLVANIA DEPARTMENT OF AGRICULTURE STATE HORSE RACING COMMISSION

PART VIII (Rules of Administrative Practice & Procedure)

Sec. 1. Intervention.

(a) *Generally.* The decision to grant a petition to intervene in a proceeding before the Commission or a presiding officer is within the sole discretion of the Commission or presiding officer.

(b) *Petition.* Petitions to intervene must be in writing and set forth, in numbered paragraphs, the specific facts demonstrating the nature of the alleged right or interest of the petitioner, the grounds for the proposed intervention, and the position of the petitioner in the proceeding. The petitioner shall fully advise the parties and the Commission of the specific issues of fact or law to be raised or controverted, by admitting, denying or otherwise answering, specifically and in detail, each material allegation of fact or law asserted in the petition, complaint or application initiating the proceeding, and citing by appropriate reference provisions or other authority relied upon. The petition to intervene shall be filed with the Commission and served upon the named parties to the underlying proceeding.

(c) *Determination.* The Commission or the presiding officer, if appointed, will issue a decision on the petition to intervene as soon as practicable, after the expiration of the time for filing answers to the petition, if it is determined that:

(1) The person has an interest in the proceeding which is substantial, direct and immediate.

(2) The interest is not adequately represented by a party to the proceeding.

(3) The person may be bound by the action of the Commission in the proceeding.

(d) *Notice of matters subject to intervention.* The Commission shall publish in the *Pennsylvania Bulletin*, on its website or announce at a regularly scheduled public meeting receipt of a timely, complete and properly filed application, petition or complaint submitted to the Commission for authorization or permission to engage in the following licensed racing activities under the act:

(1) Application for a license to conduct horse race meetings.

(2) Petition to transfer a license of a licensed racing entity.

(3) Petition to change ownership of a licensed racing entity.

(4) Petition to engage in or operate an electronic wagering system or otherwise offer electronic wagering to individuals within the Commonwealth (relating to an SPMO).

(5) Application for a license to operate as a Totalisator System or Racing Vendor.

(e) *Timing.* Petitions to intervene may be filed no later than 30 days after due notice by the Commission as set forth above, unless in extraordinary circumstances and for good cause shown, the Commission authorizes a later filing. No petitions to intervene may be filed or will be acted upon during a hearing unless permitted by the Commission or presiding officer after opportunity for all parties to object thereto.

(f) *Answer to petition.* A party, including the Commission's representatives, may file an answer to a petition to intervene, and in default thereof, will be deemed to have waived any objection to the granting of the petition to intervene. Answers shall be filed within 10 days after the date of filing of the petition to intervene, unless for cause the Commission prescribes a different time.

(g) *Participation of intervenor.* Except when the Commission determines that it is necessary to develop a comprehensive evidentiary record, the participation of a person granted the right to

intervene in a proceeding will be limited to the presentation of evidence through the submission of verified written statements attested to under oath. At the discretion of the Commission, the written statements may become part of the evidentiary record.

(1) Where there are two or more intervenors having substantially like interests and positions, the Commission or presiding officer may, in order to expedite the hearing, set appropriate limitations on the number of attorneys who will be permitted to cross-examine and make and argue motions and objections on behalf of the intervenors.

(h) Sections (a) – (g) supersede 1 Pa. Code §§ 35.27—35.32 and 35.36 (relating to intervention; and answers to petitions to intervene).