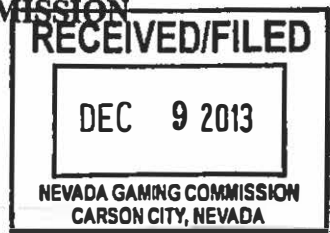


1 **BEFORE THE NEVADA GAMING COMMISSION**



2 *****

3 IN THE MATTER OF THE ADOPTION
4 OF AMENDMENTS TO NEVADA
5 GAMING COMMISSION REGULATIONS
6 NGC 1, NGC 14.260 and NGC 14.290, and Gaming Control Board Technical Standard 1.010
GOVERNING PREPAID ACCESS
INSTRUMENTS AND WAGERING ACCOUNTS

7 **PETITION FOR ADOPTION OF AND AMENDMENT TO REGULATIONS**

8 **I.**

9 **Introduction**

10 Sightline Interactive, LLC, and Sightline Payments, LLC, ("Sightline") bring this
11 Petition requesting the adoption of amendments to the Nevada Gaming Commission ("NGC")
12 Regulations as follows: (1) amendment of NGC Regulation 1 to add a definition of "Debit
13 Instrument" and "Prepaid Access Instrument;" (2) amendment of NGC § 14.260 and NGC §
14 14.290 to authorize the use of prepaid access instruments; and (3) to reflect a concurrent request
15 that the Nevada Gaming Control Board ("GCB" or "Board") Chairman amend the Technical
16 Standards adopted pursuant to NGC Regulation 14.050.

17 Any interested person may file a petition requesting adoption, amendment, or repeal of a
18 regulation pursuant to Nevada Revised Statute (NRS) 463.145(d). Sightline is a licensee and
19 therefore an interested person pursuant to NGC § 2A.010 (5) with standing to bring this Petition.

20 In accordance with the requirements of NRS 463.145(d), this Petition includes the
21 following: the reasons for the request and current status of Nevada's Laws and Regulations, the
22 substance or nature of the regulation, amendment or repeal requested, and reference to the
23 authority of the Commission to take the action requested.

24 ///

1 II.

2 **The Reasons for the Request**

3 Electronic transactions are replacing cash as a means of payment in the general economy.
4 One study predicts that, as a percentage of retail spending, cash will decline from 12.6% in 2010
5 to 9.8% in 2015¹. The reasons for the preferred use of electronic payments are increased
6 convenience and increased security – for both payer and payee alike. The casino gaming
7 industry in Nevada is a unique exception to this trend. The vast majority of casino gaming
8 transactions are conducted in cash, the only exceptions being credit play and front-money. One
9 consequence of the electronic payments trend is that consumers carry only small amounts of cash
10 with them. As a result, when they enter a casino for gaming play, patrons often have to get cash
11 in the casino (via an ATM, check cashing or cash advance transaction). One source states that
12 more than 60% of all wagering funds come from cash sourced within the casino itself.²

13 The reliance on cash as the dominant method of exchange in Nevada casinos has adverse
14 consequences for casino companies and casino patrons. For casino companies, the major
15 adverse consequence is the costs related to borrowing the money and handling the money.
16 Sightline estimates that one Nevada gaming company incurred approximately \$35 million in
17 expenses related to the borrowing and handling of its cash. For casino patrons, there are costs as
18 well. Sightline calculates that the average cash access transaction in a casino costs the patron
19 \$10.60 in fees. Finally, cash presents safety risks. At a focus group commissioned by Sightline
20 in early 2012, several gaming patrons admitted to having been robbed of jackpots leaving a
21 casino. In September 2010, a man was robbed of his winnings and killed outside a southern
22

23 _____
24 ¹ <http://www.atmmarketplace.com/article/178763/Study-U-S-consumer-use-of-cash-expected-to-decline-by-nearly-200-billion-by-2015>

² Global Cash Access Holdings, Inc., “Investor Presentation,” March 2012.

1 California casino by a person who followed him from the casino.¹

2 Credit and debit cards are the primary tools used in electronic payments. Unfortunately,
3 Nevada casinos and casino patrons cannot avail themselves of the advantages of using credit and
4 debit cards because Nevada law explicitly prohibits the use of credit cards at gaming devices and
5 debit cards have not yet been approved by Nevada's gaming regulators. The reason that these
6 instruments are not allowed is to advance responsible gaming: it is public policy to prevent
7 gaming patrons from exhausting their savings or incurring significant credit card debt in a
8 moment of weakness. However, notwithstanding this concern, it is still possible for patrons to
9 cause themselves financial harm in a casino, but they have to leave the gaming device to do so.
10 The principle that has been adopted is that the patron must have some time and/or a break in play
11 to consider whether getting more funds for gaming is a responsible action.

12 At the time that these laws and regulations were put in place, prepaid cards did not exist
13 as a payments instrument. Prepaid cards are one of the fastest-growing electronic payment
14 methods in the U.S. Payments using prepaid cards are forecasted to grow from \$152 billion in
15 2010 to \$421 billion in 2017.² However, growth and popularity do not by themselves make
16 prepaid cards suitable for gaming use. What makes them suitable for gaming use is that – unlike
17 credit cards and many debit cards – they do not have credit or overdraft features. Once a prepaid
18 card balance has been exhausted it must be reloaded, and reloading takes time and effort. In this
19 way, prepaid cards provide the same “time and diversion” standard that is consistent with
20 responsible gaming.

21 Prepaid cards come in many forms such as gift cards, payroll cards, EBT cards, etc. The
22 type of card that Sightline proposes to use for gaming is a so-called General Purpose Reloadable

23
24 ¹ http://www.cbsnews.com/2100-201_162-6833477.html

² Boston Consulting Group, “Global Prepaid Opportunity,” January 2012, p. 3.

1 Card (“GPR”). The card can be used at more than one defined location or retail chain (the
2 “General Purpose” aspect) and, unlike gift cards, funds can be added again and again (the
3 “Reloadable” aspect). GPR cards are issued by a state- or federally-chartered bank. The money
4 that is loaded onto a prepaid card is a deposit in that bank. The deposit is insured up to FDIC
5 limits, and the card benefits from Federal Reserve Regulation “E” protection against lost or
6 stolen cards. Because the card is issued by a bank, all the information that is required by banks
7 in order to open an account must be received in order to get the card (name, physical address,
8 date of birth and Social Security number). The information is verified against databases to
9 assure compliance with federal CIP and OFAC rules. A GPR card is registered to a unique user.

10 Sightline’s card program is called Loyalty Card Plus® (“LCP”). It is designed to be an
11 extension of the loyalty cards that have become so familiar to casino companies and their
12 patrons. In most cases, the card will feature the casino’s brand and other proprietary content that
13 associates the card with the casino. The card will be issued to casino patrons by direct mail to
14 the casino’s player database contacts or by registering it in the casino or online.

15 Sightline’s LCP program is a “dual-network” program. For all gaming transactions,
16 requests for funding are routed on Sightline’s proprietary SPAN® network. The only criteria that
17 matter in deciding whether to authorize a request for funds on the SPAN® network are 1) the
18 request must come from a known server or device, 2) valid identifying information must be
19 received (such as PIN or last four numbers of the SSN), and 3) sufficient balances must be on
20 deposit to cover the request. No Merchant Category Codes (“MCC”) are considered in
21 determining an authorization. All non-gaming transactions (retail, F&B, entertainment, etc.) –
22 whether inside the casino or outside it – run on the Discover® network. LCP can be used at more
23 than four million merchants in North America alone.

24 The use of the SPAN network for gaming transactions offers a significant potential

1 benefit to legal online gaming operators. In order to process transactions correctly, transactions
2 for funding online wagering accounts must be routed using a certain MCC that results in a
3 substantial volume of transaction declines. Since all gaming transactions using LCP run on the
4 SPAN network and MCC codes are not required, the use of LCP should result in significantly
5 higher funding approvals.

6 In summary, the proposed use of prepaid cards at wagering devices affords significant
7 benefits to gaming patrons, gaming operators and gaming regulators. For gaming operators, the
8 benefits are decreased expenses associated with borrowing and handling cash, as well as
9 expanded ability to reward and incentivize patrons. For gaming patrons, a prepaid card is a more
10 convenient and much safer way to hold funds for gaming purposes, and it allows them to conduct
11 their gaming purchases in the same way as they conduct the majority of their non-gaming
12 purchases. For gaming regulators, the use of the card creates a computerized record that should
13 assist in a variety of regulatory activities including auditing transactions and resolving patron
14 disputes. Finally, the increased use of recorded electronic transactions could enhance AML
15 programs.

16 Since prepaid cards are a relatively new method of holding cash for consumer uses, the
17 Nevada Regulations do not adequately address their use and amendments and additions are
18 necessary. Currently, NRS 463.3557 prohibits the use of credit cards to transfer money directly
19 to a game or gaming device. However, debit cards are permitted to be used, provided they are
20 approved by the Board. See NRS 463.3558. The Board and Commission have approved the use
21 of debit instruments in conjunction with interactive wagering and race and sports pool wagering.
22 See NGC Regulations 5A.120(4)(d) and 22.160(1)(e). Sightline and others have been approved
23 to perform certain functions associated with account wagering pursuant to the above cited
24 regulations in the conduct of interactive and race and sports pool account wagering. The

1 amendments would allow the use of prepaid cards in conjunction with account wagering for slot
2 machines and table games on the casino floor in addition to what is currently authorized. In
3 respect of account wagering, it is currently not permitted to transfer balances from one wagering
4 account to another. The prepaid card can act as a “bridge” across all wagering accounts – casino,
5 race & sports and online – providing significantly enhanced convenience for the patron while
6 preserving the integrity of the Nevada Regulations.

7 Arguably, a prepaid card is not a debit instrument or a credit instrument. For purposes
8 of federal law, it is separately defined. *See* 31 C.F.R. 1010.100xx). However, Petitioner
9 proposes to define prepaid debit cards as a type of debit instrument so that, in addition to being
10 covered by the Nevada Regulations, their use will be covered by Nevada’s criminal statutes.
11 Specifically, Petitioner proposes that a “Prepaid Access Instrument” be defined as a type of
12 “Debit Instrument” in order that NRS Chapter 465, “Crimes and Liabilities Concerning
13 Gaming,” will apply to Prepaid Access Instruments. NRS 465.080 addresses crimes related to
14 counterfeiting debit instruments or possessing paraphernalia for manufacturing counterfeit debit
15 instruments. *See* NRS 465.080 (1) & (6). In addition, NRS 465.088 provides for increased
16 penalties for violations of NRS 465.070 to 465.085, inclusive. Coverage by the criminal statutes
17 will provide additional assurance that the integrity of a Prepaid Access Instrument will be
18 maintained.

19 One of the reasons traditional debit cards have not been authorized in the past comes
20 from concerns that they may worsen problem gambling. Sightline submits that the use of a
21 prepaid card will not increase the prevalence of problem gambling. Certain proposals that were
22 pursued in the past did not take the implications of problem gambling into consideration and
23 were rejected by the Nevada regulators. Those proposals would have allowed a player to directly
24 insert a debit card into a slot machine and transfer money directly to the machine. Underlying

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1 the concerns about this product was the presumption that the debit card was attached to the
2 patron's "main" bank account, with the risk that a patron could gamble away vital everyday
3 funds in a moment of weakness. The type of prepaid card that Sightline proposes for use in
4 gaming is different. It is intended to be separate from a patron's "main" bank account. Patrons
5 must pre-fund the prepaid card, and would likely do so with a certain gaming "budget" in mind.
6 When and if the prepaid card balance is exhausted in gaming use, there can be no further funding
7 of gaming activity until the card is reloaded. Reloading takes time and diversion, the essential
8 elements of the responsible gaming protections around getting additional funds in a gaming
9 environment. It is also important to note that the prepaid card will not be inserted into the
10 gaming device. Sightline's systems will link the player tracking card number with the prepaid
11 account on the back end. This achieves two objectives: player behavior does not need to change
12 and gaming devices do not need to be made PCI-compliant. In summary, it is Sightline's
13 position that its prepaid card does not pose additional risk to those at risk for problem gambling
14 while at the same time providing significantly enhanced convenience and safety for the vast
15 majority of gaming patrons.

16 III.

17 The Substance or Nature of the Regulation, Amendment or Repeal Requested

18 The proposed amendments generally authorize the use of a prepaid card in gaming
19 activities and also ensure that the criminal protections of NRS Chapter 465 apply, safeguarding
20 their use in gaming activities and assuring the integrity of the gaming industry in Nevada.

21 NRS 463.01469 defines "Debit Instrument" as "a card, code, or other device with which
22 a person may initiate an electronic transfer of money to a game or gaming device." However,
23 this term is not defined in the Commission's Regulations. Technical Standard 1.010(9) provides
24 the following definition: "Debit Instrument' means a card, code or other device with which a

1 person may initiate an electronic funds transfer or a wagering account transfer.” The Petitioner
2 is concurrently with this petition also requesting that the Board Chairman propose an amendment
3 to the TS definition pursuant to the provisions of NGC Regulation 14.050 to be consistent with
4 the Commission’s new definition as described below.

5 **Petitioner proposes an amendment to NGC Regulation 1 that defines “Debit Instrument”**
6 **consistent with the statutory definition and defines “Prepaid Access Instrument” as an acceptable**
7 **form of debit instrument. The amendment adding the definition of “Debit Instrument” defines it**
8 **as “A card code, or other device with which a person may initiate an electronic funds transfer or**
9 **a wagering account transfer. This term includes, without limitation, a prepaid access**
10 **instrument.” Prepaid Access Instrument is then defined as “a card, code, electronic serial**
11 **number, mobile identification number, personal identification number or similar device that**
12 **allows patron access to funds that have been paid in advance and can be retrieved or transferred**
13 **at some point in the future through such a device. A Prepaid Access Instrument must be**
14 **distributed by a licensed gaming operator or its affiliates and only Prepaid Access Instruments**
15 **distributed by a licensee or its affiliates may be used to fund a wagering account at that**
16 **licensee’s location or the location of its affiliates. A Prepaid Access Instrument may not be**
17 **funded by payroll direct deposits and may only be used in conjunction with an approved**
18 **wagering account.” By definition, the instrument may only be used in conjunction with an**
19 **approved wagering account. This provision is consistent with the existing provisions in**
20 **Regulations 5A, 14 and 22 regarding wagering accounts. The amendment also restricts the**
21 **distribution of the cards to licensed operators and that provision is also consistent with the**
22 **wagering account provisions. This provision also recognizes that a patron will be permitted to**
23 **use the card at affiliate licensees if permitted by the licensee. Finally, as a matter of policy, the**
24 **regulation would not allow the card to be funded by direct payroll deposits.**

1 **Petitioner proposes that the Commission amend NGC 14.260 to read (new is**
2 **underlined):**

3 3. **“Except as otherwise provided in subsection 4,”** the Chairman shall not grant an
4 approval pursuant to subsection 1 (Applications for approval of associated
5 equipment) or waive such approval requirement pursuant to subsection 2 (upon
6 written request from the manufacturer or distributor of associated equipment, or as
7 the chairman otherwise deems reasonable, may waive the approval requirement for
8 associated equipment) with respect to any associated equipment that, when installed,
9 will allow a patron to use a debit instrument for purposes of making electronic funds
10 transfers from an independent financial institution to a gaming device through a
11 cashless wagering system until such time as the appropriate regulations for such
12 transfers are adopted.

13 **Petitioner proposes that the Commission add to NGC 14.260, subsection 4: The**
14 **Chairman may grant approvals pursuant to subsection 1 or waive such approval requirements**
15 **pursuant to subsection 2 with respect to the use of a Prepaid Access Instrument in conjunction**
16 **with an approved wagering account.**

17 **Petitioner proposes that the Commission amend NGC 14.290 as follows (new is**
18 **underlined):**

- 19
- 20 1. **“Except as otherwise provided in subsection 2, or regulation 14.260(4),** a licensee shall
21 not install or use associated equipment without prior written approval of the chairman or
22 his designee, unless the chairman has waived the approval requirement pursuant to
23 subsection 2 of regulation 14.260. Applications for approval to install or use associated
24 equipment shall be made and processed in such manner and using such forms as the
chairman may prescribe. The chairman shall not approve any use or installation(s) of
associated equipment that allow a patron to use a debit instrument for purposes of making
electronic funds transfers from an independent financial institution to a gaming device
through a cashless wagering system until such time as the appropriate regulations for
such transfers are adopted.
 2. **The chairman may grant approvals for the use of or installation of equipment used in**
conjunction with Prepaid Access Instruments in conjunction with approved wagering
accounts.

25 The Proposed Language for the amendments is attached hereto as “**Exhibit 1.**”

26 It should be noted that for purposes of explanation, Sightline has included the
27 methodology, technology and process it intends to use if the Commission adopts these

1 amendments; however, the amendments have been drafted so that any cash access service
2 provider could use their methodologies, technologies and processes in respect of a Prepaid
3 Access Instrument, provided they can satisfy these Regulations and the Board's technical
4 standards. The regulations are not crafted to provide any advantage to one licensee over another.

5 **IV.**

6 **The Authority of the Commission to Take the Action Requested**

7 The Commission is authorized to take action pursuant to the Nevada Revised Statutes.
8 NRS 463.150(1) provides that, "The Commission shall, from time to time, adopt, amend or
9 repeal such regulations, consistent with the policy, objects and purposes of this chapter as it may
10 deem necessary or desirable in the public interest in carrying out the policy and provisions of this
11 chapter." *See also* NRS 463.145(1). NRS 463.1409(1) provides that, "The provisions of this
12 chapter with respect to state gaming licenses and manufacturer's, seller's and distributor's
13 licenses must be administered by the Board and the Commission, which shall administer them
14 for the protection of the public and in the public interest in accordance with the policy of this
15 state." Further, NRS 463.143 provides that, "The Commission may exercise any proper power
16 and authority necessary to perform the duties assigned to it by the Legislature, and is not limited
17 by any enumeration of powers in this chapter."

18 The Commission is authorized to take action pursuant to the Regulations of Nevada
19 Gaming Commission. NGC § 1.010 provides in part that:

20 The commission will, from time to time, promulgate, amend and repeal such regulations,
21 consistent with the policy, objects and purposes of the Nevada Gaming Control Act, as it
may deem necessary or desirable in carrying out the policy and provisions of that Act.

22 Also, Nevada case law supports the Commission's authority to make the proposed
23 amendments. An administrative body may, within prescribed limits and when authorized by the
24 law-making power, make rules and regulations calculated to carry into effect the expressed

1 legislative intention." *Cashman Photo Concessions & Labs v. Nevada Gaming Comm'n*, 91 Nev.
2 424, 428 (Nev. 1975).

3 V.

4 Conclusion

5 Accordingly, Sightline requests that the Commission commence proceedings to adopt
6 amendments to regulations, NGC Regulation 1, NGC 14.260 and NGC 14.290, in the form set
7 forth in Exhibit 1.

8 DATED and respectfully submitted this 9th day of December, 2013.

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EXHIBIT 1

Proposed Amendments to Authorize the Use of Prepaid Cards

Current Definitions

NRS 463.01469 definition of Debit Instrument. “Debit Instrument means a card, code or other device with which a person may initiate an electronic funds transfer of money to a game or gaming device.” There is no definition of Debit Instrument in the NGC Regulations.

New definitions

Restate and clarify the statutory definition in the new regulation and include a provision that clarifies that Prepaid Instruments are a type of Debit Instrument as follows:

NGC Regulation 1.092 (New Subsection)

Debit Instrument means a card, code or other device with which a person may initiate an electronic funds transfer or a wagering account transfer. The term includes, without limitation, a Prepaid Access Instrument.

Create a new definition that recognizes Prepaid Access Instruments as follows:

NGC Regulation 1.146 (New Subsection)

Prepaid Access Instrument means a card, code, electronic serial number, mobile identification number, personal identification number or similar device that allows patron access to funds that have been paid in advance and can be retrieved or transferred at some point in the future through such a device. A Prepaid Access Instrument must be distributed by a licensed gaming operator or its affiliates and only Prepaid Access Instruments distributed by the licensee or its affiliates may be used to fund a wagering account at that licensee’s location or the location of its affiliates. The Prepaid Access Instrument may only be used in conjunction with an approved wagering account and may not be funded by payroll direct deposit.

Regulation 14 Amendments

Amend Regulation 14.260 as follows:

3. *Except as otherwise provided in subsection 4, the chairman shall not grant an approval pursuant to subsection 1 or waive such approval requirement pursuant to subsection 2 with respect to any associated*

equipment that, when installed, will allow a patron to use a debit instrument for purposes of making electronic funds transfers from an independent financial institution to a gaming device through a cashless wagering system until such time as the appropriate regulations for such transfer are adopted.

4. The chairman may grant approvals pursuant to subsection 1 or waive such approval requirements pursuant to subsection 2 with respect to the use of a prepaid access instrument in conjunction with an approved wagering account.

Amend Regulation 14.290 by creating two subsections as follows:

- 1. Except as otherwise provided in subsection 2, or regulation 14.260(4), A licensee shall not install or use associated equipment without prior written approval of the chairman or his designee, unless the chairman has waived the approval requirement pursuant to subsection 2 of Regulation 14.260. Applications for approval to install or use associated equipment shall be made and processed in such a manner and using such forms as the chairman may prescribe. The chairman shall not approve any use or installation(s) of associated equipment that allow a patron to use a debit instrument for purposes of making electronic funds transfers from an independent financial institution to a gaming device through a cashless wagering system until such time as the appropriate regulations for such transfers are adopted.*
- 2. The chairman may grant approvals for the use of or installation of equipment used in conjunction with prepaid access instruments in conjunction with approved wagering accounts.*

Technical Standard
1.010(9)

The definition of debit instrument is consistent with the new definition but new language should be added to be consistent with the above provisions as follows:
“The term includes, without limitation, a Prepaid Access Instrument.”