



Massachusetts Gaming Commission Meeting Minutes

Date/Time: January 17, 2023, 10:00 a.m.
Place: Massachusetts Gaming Commission
VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 111 1431 1966

The Commission conducted this public meeting remotely utilizing collaboration technology. Use of this technology was intended to ensure an adequate, alternative means of public access to the Commission's deliberations for any interested member of the public.

Commissioners Present:

Chair Cathy Judd-Stein
Commissioner Eileen O'Brien
Commissioner Bradford Hill
Commissioner Nakisha Skinner
Commissioner Jordan Maynard

1. [Call to Order](#) (00:00)

Chair Judd-Stein called to order the 424th Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and all five commissioners were present for the meeting.

Chair Judd-Stein noted that she had filed a disclosure of an appearance of conflict of interest in accordance with G.L. c. 268A, § 23(b)(3) as she had connections with PointsBet MA, LLC ("PointsBet") employees. Commissioner O'Brien noted that she had just learned that Teresa Fiore is employed by PointsBet, and that she had not had the opportunity to file a G.L. c. 268A, § 23(b)(3) disclosure with her appointing authority. Commissioner O'Brien stated that she had no contact with Ms. Fiore during this process and that she could be fair and impartial in evaluating PointsBet's application.

2. [Opening Remarks](#) (02:50)

Chair Judd-Stein stated that in this meeting, the Commission would review the final category three untethered sports wagering application which was submitted by PointsBet. She stated that the final evaluation of the category three untethered applicant pool would begin at the January 18, 2023 public meeting.

3. [Evaluation Process](#) (03:57)

- a. Presentation of application and demonstration of technology and user experience by each applicant for a Category 3 untethered sports wagering operator license in accordance with 205 CMR 218.06(3)

PointsBet's Senior Director of Regulatory Operations Andrew Moreno introduced PointsBet's U.S. CEO Johnny Aitken, PointsBet's Head of U.S. Legal and Compliance Rachel Kasper, PointsBet's Executive Vice President of Media and Strategy Rick Martira, PointsBet's Senior Director of Diversity, Culture, and Employee Experience Laura Leffler, PointsBet's Manager of Trading Compliance Andrew Manino, and PointsBet's Director of Engineering Operations Loren Crowe. Mr. Moreno stated that some parts of the application were commercially sensitive and requested that those topics be discussed in executive session.

Mr. Aitken explained PointsBet's history with sports wagering in Australia, Canada, and 14 United States jurisdictions. Mr. Martira provided a marketing approach overview regarding PointsBet's premium product messaging, localized media approach, dedicated VIP team, and targeted promotions.

Ms. Kasper explained that PointsBet focused on responsible gaming at the forefront and stated that the responsible gaming team worked with all departments. She stated that PointsBet had implemented a responsible gaming plan and provided support resources to customers. She stated that all advertising contained responsible gaming language. She explained that PointsBet sent out a monthly responsible gaming email and had daily responsible gaming posts on social media. She stated that PointsBet was engaged with responsible gaming stakeholders.

Ms. Leffler stated that 23% of PointsBet employees were women and 39% of employees were diverse. She stated that 26% of employees in leadership roles were women and 14% of those leadership roles were diverse. She noted that PointsBet had spent \$1.89 million with minority-owned business enterprises, women-owned business enterprises, and veteran-owned business enterprises in 2022. She stated that PointsBet was partnered with the National Minority Supplier Diversity Council.

Mr. Manino provided an overview of PointsBet's in-house technology and trading system. He stated that the tech team ensured that only approved wagers were offered. Mr. Crowe provided a product demonstration of PointsBet's platform. Chair Judd-Stein inquired about the icon which provided information regarding each bet. Mr. Crowe explained how the information tabs worked.

b. [Presentations and Analysis Relevant to review and evaluation of Application for each Category 3 untethered sports wagering license](#) (1:07:07)

i. [Technical Components](#) (1:07:27)

Joe Bunevith, Vice President of Government and Regulatory Affairs from Gaming Laboratories International (“GLI”), provided an overview of the certification process and end verification for mobile applications and other digital platforms once they are approved by the Commission. He stated that GLI would verify whether the platform meets all requirements specific to Massachusetts during the verification process.

ii. [Report on suitability of the Applicant](#) (1:12:44)

Director of the Investigations and Enforcement Bureau (“IEB”) Loretta Lillios discussed the IEB’s report on the preliminary suitability of PointsBet. She noted that the Licensing Division identified three entity qualifiers and four individual qualifiers. She stated that nothing significant was outstanding from PointsBet’s application.

iii. [Financial and Economic Impact Analysis](#) (1:18:14)

Chair Judd-Stein explained that RSM US, LLC had reviewed previous sports wagering applicants’ financial projections, but that RSM had a conflict with PointsBet. She stated that the Commission utilized Litman Gerson Associates (“LGA”) to review PointsBet’s financial projections.

Ross Yogel, Finance Consultant from LGA, presented on the financial projection estimates provided by PointsBet, including anticipated market size in Massachusetts, year-over-year growth trends, market share data from other jurisdictions, hold percentage over time, and liquidity of the applicant. He stated that the information provided by PointsBet included competitively sensitive data that would be better addressed in an executive session.

c. [Review and evaluation of each Application for a Category 3 untethered sports wagering operator license as submitted by PointsBet Massachusetts, LLC in accordance with 205 CMR 218.00 including, but not limited to consideration of the following criteria](#) (1:48:50)

i. [Experience and Expertise related to Sports Wagering \(205 CMR 218.06\(5\)\(a\)\)](#) (1:49:40)

Chair Judd-Stein asked how prohibited events would be prevented from being offered. Mr. Manino explained that there were blockers placed by both PointsBet and the data providers to prevent prohibited markets from being offered. Commissioner Maynard asked if PointsBet had

gone live in Ohio and Maryland since it submitted its application in Massachusetts. Mr. Moreno stated that PointsBet was live in both states.

Commissioner O'Brien sought clarification regarding points betting, booster tokens, and name-a-bet and how they comply with responsible gaming. Mr. Moreno stated that all promotions offered were compliant with local regulations. Mr. Martira explained how the different bets worked.

Commissioner O'Brien asked for details regarding procedures related to hardship requests. Mr. Moreno explained that PointsBet staff actively work with regulatory partners but may need to submit hardship requests for complex fixes that could not be implemented quickly. Commissioner O'Brien asked GLI if hardship requests were an industry norm. Mr. Bunevith explained that hardship requests were available for operators to fix something that was not compliant, and that the 90 days cited by PointsBet was normal for that type of return.

Chair Judd-Stein inquired about free bets. Ms. Kasper explained that free bets were bets where the customer did not have to provide any funds. She stated that PointsBet would adapt the language to what is allowed by the regulatory landscape. Mr. Martira stated that free bets were also referred to as bet credits in other jurisdictions.

The Commission reached a consensus that PointsBet had met the Commission's expectations with regard to Section B of the application.

ii. [Economic impact and other benefits to the Commonwealth if applicant is awarded a license \(205 CMR 218.06\(5\)\(b\)\)](#) (2:10:40)

Commissioner Hill inquired about PointsBet's community engagement in other jurisdictions. PointsBet's Chief People Officer Amanda Anderson stated that PointsBet had partnered with Project Angel Heart, participated in Martin Luther King Jr. Day parades, and conducted food drives and toy drives. Commissioner Hill noted that more local partnerships were detailed in Section D of the application.

Commissioner Maynard inquired about PointsBet's relationship with three golf courses in Massachusetts. Mr. Martira stated that the partnerships were a localized marketing presence to attract customers interested in sports.

Commissioner Skinner asked what steps were taken regarding the call center collaboration with a local women-owned business enterprise. Mr. Moreno stated that the work was early in the process and still being scoped. He stated that he could discuss the specifics in an executive session. Commissioner Skinner asked if the call center would be a physical location or Massachusetts residents working remotely. Mr. Moreno stated that it would be a physical location and that PointsBet was vetting all capabilities for the call center.

Commissioner O'Brien asked what steps were being taken to engage with local PR firms. Mr. Moreno stated that the work was early in the process. He stated that he could discuss the specifics in an executive session.

Chair Judd-Stein noted that there were cross-marketing opportunities with the Massachusetts Lottery. Mr. Moreno stated that PointsBet's platform was not in direct competition with the lottery and that the two products could complement each other.

The Commission agreed to wait until after the executive session before reaching a consensus as to whether PointsBet met the Commission's expectations with regard to Section C of the application.

iii. [Applicant's willingness to foster racial, ethnic, and gender diversity, equity, and inclusion \(205 CMR 218.06\(5\)\(d\)\)](#) (2:27:06)

Commissioner Hill asked what methods could be used to contact customer support. PointsBet's Director of Customer Support Bill Fox stated that customer service was available 24/7 via live chat, email, and phone.

Commissioner Skinner requested that PointsBet provide their total spend number to put the diversity spending into context. She noted that the presentation did not include diversity employment goals or diversity spend goals. Ms. Leffler stated that PointsBet was focused on attracting and retaining diverse talent with year-over-year growth. Commissioner Skinner requested that PointsBet submit a diversity spending goal and a diversity employment goal.

Commissioner O'Brien noted that the diversity employment numbers were not great in comparison to other applicants. She inquired about what efforts were being made to increase diversity employment numbers. Ms. Leffler stated that PointsBet had a partnership with Women in Sports Tech and other organizations.

Commissioner Skinner noted that the percentages of diverse employment listed in the application did not match what was presented by PointsBet. Ms. Anderson explained that the percentages in the presentation are current and had increased after the application was submitted. She stated that PointsBet was continuing to engage in partnerships to increase diversity in employment and spending. Commissioner O'Brien asked if PointsBet would partner with local organizations in Massachusetts. Ms. Anderson replied that PointsBet would engage with local organizations. Commissioner Skinner noted that there were outstanding requests regarding overall spend so that supplier diversity spending could be placed into context. Ms. Kasper stated that PointsBet would provide that information to the Commission.

iv. [Proposed measures related to responsible gaming \(205 CMR 218.06\(5\)\(c\)\)](#) (2:41:17)

Commissioner O'Brien inquired about the ad hoc initiative for responsible gaming information. Ms. Kasper stated that all PointsBet employees were trained regarding responsible gaming. She explained that the ad hoc initiative looked for language in communications that would trigger an escalation to the responsible gaming team. She stated that staff were trained to look for red flags, such as overcommunication related to finance concerns.

Chair Judd-Stein asked if the responsible gaming plan was adopted by the board of directors or governance committee. Mr. Moreno stated that the responsible gaming plan was included in the internal controls submitted for approval in each jurisdiction.

Commissioner Hill asked about PointsBet's compliance issues related to unauthorized events being offered. Ms. Kasper stated that even with blockers in place, there could be a lag in information transferred between the operator and data feed providers. She stated that this issue was not unique to PointsBet. She stated that more information could be provided in an executive session. General Counsel Todd Grossman stated that most of the compliance issues were a matter of public record, and that only the remedial actions taken could be discussed in executive session.

Commissioner Hill inquired about three compliance matters in Indiana. Mr. Manino explained that two of the incidents were regarding events that were meant to be offered in a single jurisdiction but were inadvertently uploaded to multiple jurisdictions. Ms. Kasper stated that the third event was a data feed issue where an unapproved event was listed under an approved league. Mr. Manino stated that a blacklist was created for each jurisdiction and that PointsBet swept the website every minute to look for unapproved events. Commissioner Hill stated that he did not need to hear further details in executive session.

Commissioner Skinner asked about the incident in Indiana where an excluded person placed wagers. Ms. Kasper stated that she believed the excluded person was a member of a sports team that was prohibited from wagering. She stated that she would check PointsBet's record and report back to the Commission to confirm that was correct.

The Commission reached a consensus that PointsBet had met the Commission's expectations with regard to Section E of the application.

v. [Technology that the applicant intends to use \(205 CMR 218.06\(5\)\(e\)\)](#) (3:08:27)

Chair Judd-Stein commended PointsBet on how self-sufficient it was with in-house technology.

The Commission reached a consensus that PointsBet had met the Commission's expectations with regard to Section F of the application.

vi. [Suitability of the applicant and its qualifiers \(205 CMR 218.06\(5\)\(f\)\)](#) (3:10:35)

Chair Judd-Stein stated that the Commission was still waiting to discuss LGA's presentation regarding PointsBet's financial suitability in executive session.

Commissioner O'Brien inquired about the expiration of PointsBet's license to operate in New Jersey in December of 2022. Ms. Kasper stated that PointsBet's application to renew its license was still pending, and that PointsBet had a transactional waiver approved by the New Jersey Attorney General to continue operations until the renewal application was approved.

Commissioner Skinner asked why PointsBet had withdrawn an application in Ohio. Mr. Moreno stated that PointsBet had pursued a partnership with a retail location during the licensing period. He stated that given the availability of licenses, PointsBet chose to focus on mobile sports wagering and withdrew its application for a retail license.

The Commission reached a consensus that PointsBet had met the Commission's expectations with regard to Section G of the application.

d. [Executive Session](#) (3:18:09)

General Counsel Grossman stated that there were three items for review in the executive session. He stated that the first item for executive session was LGA's financial projections and other associated methodologies. He stated that the second item for executive session was related to PointsBet's engagement with a local public relations firm. He stated that the third item for executive session was regarding PointsBet's partnership with a local enterprise to create a call center. He stated that these three topics implicate competitively sensitive info and are appropriate for review in executive session in accordance with G.L. c. 23N, § 6(i).

Chair Judd-Stein stated that the Commission anticipated that it may meet in executive session in conjunction with its review of the each of the category 3 untethered applications in accordance with G.L. c. 30A, § 21(a)(7) and G.L. c. 23N, § 6(i) to consider information submitted by the applicants in the course of the respective applications for an operator license, as examined by LGA in the context of any discussed financial metrics, ratios, or associated financial measures, that are a trade secret, competitively-sensitive or proprietary and which if disclosed publicly would place the applicant at a competitive disadvantage.

Commissioner O'Brien moved that the Commission go into executive session to talk about the matters delineated by General Counsel Grossman and for the reasons enunciated by the Chair. Commissioner Hill seconded the motion.

Roll call vote:

<i>Commissioner O'Brien:</i>	<i>Aye.</i>
<i>Commissioner Hill:</i>	<i>Aye.</i>
<i>Commissioner Skinner:</i>	<i>Aye.</i>
<i>Commissioner Maynard:</i>	<i>Aye.</i>
<i>Chair Judd-Stein:</i>	<i>Aye.</i>

The motion passed unanimously, 5-0.

Chair Judd-Stein noted that the public session of the Commission meeting would reconvene at the conclusion of the executive session.

Transcriber's Note: The Commission entered executive session and returned to the public session of the meeting at [4:21:49](#).

The Commission reached a consensus that PointsBet had met the Commission's expectations with regard to Section C of the application.

Chair Judd-Stein asked which topics required supplemental information. General Counsel Grossman stated that the Commission requested that PointsBet establish workforce and supplier diversity goals and provide such information to the Commission. He stated that the Commission also requested PointsBet's total supplier spend to put diversity spend amounts into context.

General Counsel Grossman stated that PointsBet also agreed to provide information about the compliance issue in Indiana, and whether the player was excluded or a member of a sports team. Ms. Kasper stated that she reviewed that incident and discovered that the individual was an excluded player and apologized for the previous misinformation. Commissioner Skinner asked what remediation measures were put in place after this event. Ms. Kasper stated that the incident occurred due to a manual upload error with the patron's identifying information. She stated that the Commission would be provided with a brief on that event and a copy of the March 23, 2021 disposition. Mr. Moreno stated that PointsBet had a significant investment in compliance since that incident.

Commissioner O'Brien asked if PointsBet had associations with colleges and universities. Mr. Martira explained that PointsBet had relationships with the University of Colorado and the University of Maryland. He noted that the relationship focused on recruitment and expanding the Universities' sports technologies programs.

The meeting was adjourned by the Commissioners after the conclusion of their discussion regarding supplemental information requests.

Transcriber's note: The recording of this meeting was inadvertently ended just prior to the Commission's vote to adjourn.

List of Documents and Other Items Used

1. [Notice of Meeting and Agenda dated January 3, 2023](#)