Memo

Date:	October 25, 2024
To:	Oregon State Lottery Commission
From:	Mike Wells, Director
Subject:	ORS 461.335 Temporary Letter of Authority • C&S Wholesale Grocers, LLC • 1918 Winter Street ABS LLC • 1918 Winter Street Pacific Northwest LLC • The Kroger Co.

__461.335 Temporary letter of authority; grounds for revocation.__ (1) The Oregon State Lottery Commission may grant a temporary letter of authority for a period not to exceed 90 days on change of ownership applications for certificates of authority granted under this chapter if the applicant pays the fee prescribed by the commission for a temporary letter of authority. A temporary letter of authority issued under this section does not constitute a lottery game retail contract for the purposes of ORS 461.300.

(2) The commission, summarily and without prior administrative proceedings, may revoke a temporary letter of authority any time during the 90 days if the commission finds that any of the grounds for refusing a lottery game retail contract or terminating a contract under ORS 461.300 exist.

(3) A person subject to subsection (2) of this section shall be given an interview under the direction of the commission if the person requests an interview prior to revocation of a temporary letter of authority. However, the proceedings are not a contested case under ORS chapter 183. [2001 c.150 §2]

The Kroger Co. is attempting to purchase Albertsons Companies, Inc which owns Safeway Inc. Safeway and Albertson's hold 121 traditional lottery contracts throughout the state. This sale has been subject to a federal trade commission lawsuit, and two other state lawsuits which are all pending as of Oct. 14th, 2024. Lottery is requesting an approval to grant Temporary Letters of Authority to these entities to prepare for an acquisition of this size.

Lottery is working to complete all related application documents, including ADA compliance, before the purchase deal is finalized. If Lottery can submit these applications prior to a finalized deal, The Kroger Co. could use the 100% stock buy out application process and would not need to utilize ORS 461.335. If The Kroger Co. finalizes their purchase prior to Lottery submitting and approving their applications, the application type will change from a 100% stock buy out to a change of ownership application and a Temporary Letter of Authority could be used to minimize Lottery products not being available at these locations.

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As part of the Kroger transaction, Kroger is selling sixty-two stores to C&S Wholesale Grocers, LLC. C&S Wholesale Grocers, LLC created two new entities that will operate these locations. These entities are 1918 Winter Street ABS LLC (58 locations) and 1918 Winter Street Pacific Northwest LLC (four locations).

The Kroger Co. will be selling stores to C&S Wholesale Grocers, LLC at a time that is currently unknown. I have been informed that it will likely be a few weeks, but a firm timeline will not be established until The Kroger Co. takes ownership of the locations. Once assigned, these applications will be a change of ownership application and will qualify to use ORS 461.335. If approved by the Commission, Lottery, C&S Wholesale Grocers, LLC, its affiliates and potentially The Kroger Co., could use the 90 days to complete the application process while minimizing any negative impacts to customers during the change of ownership and navigating the regulatory bridge.

Lottery will provide the entities with a copy of a temporary retailer contract with this temporary letter of authority for all locations. By operating under the Temporary Authority, Kroger, C&S Wholesale Grocers, LLC, and its affiliates agree to each of these terms and conditions of the temporary retailer contract. The temporary letter of authority would go into effect on dates to be determined and would automatically terminate 90 days later.

At any time during the 90-day term, a temporary contract may be approved for any entity after an investigation by the Oregon State Police. If a temporary contract is approved or denied, the temporary letter of authority will be terminated.