

BEFORE THE IOWA RACING & GAMING COMMISSION

PETITION BY RIVERSIDE CASINO AND)	
GOLF RESORT, LLC; AND WASHINGTON)	
COUNTY RIVERBOAT FOUNDATION,)	
INC.)	
)	
FOR A DECLARATORY ORDER)	SCHEDULING ORDER
)	AND
REGARDING IOWA CODE)	RULING ON PETITIONERS'
§ 99F.7(11))	REQUEST FOR STAY

On November 8, 2024, Petitioners Riverside Casino and Golf Resort, LLC (Riverside) and Washington County Riverboat Foundation, Inc. (together, Petitioners) filed a petition for declaratory order with the Iowa Racing and Gaming Commission. The petition seeks:

1. A declaration by the Commission that the Commission lacks authority to issue any license to conduct gambling games or operate a gambling structure in Linn County, because according to Petitioners, the 2021 referendum held in Linn County that addressed the conduct of gambling games in the county did not strictly comply with Iowa Code section 99F.7(11)(d)–(e).
2. A stay of the Commission’s consideration of any license application for a proposed gambling structure in Linn County while the petition for declaratory order is pending.

Iowa Code section 17A.9(5) requires the Commission to do one of the following things in writing within thirty days of receiving a petition for declaratory order:

(1) issue an order; (2) set the matter for specified proceedings; (3) agree to issue a declaratory order by a specified time; or (4) decline to issue a declaratory order, stating the reasons for declining. At its November 21, 2024 public meeting, the Commission voted unanimously to set a schedule for further proceedings. The Commission also voted unanimously to deny Petitioners' request for stay and directed Commission staff to prepare a written order addressing both items.

I. REQUEST FOR STAY

The request for stay is denied. A petition for declaratory order may not include requests for other specific or auxiliary relief. *See Pub. Emp't Relations Bd. v. Stohr*, 279 N.W.2d 286, 288 (Iowa 1979) (noting an agency dismissed a petition for declaratory order "without considering the merits" because the petition requested specific relief beyond just a declaration).

There is also no Commission precedent for stays in declaratory order proceedings as Petitioners have requested. In 2015, the Commission issued a declaratory order regarding Iowa Code section 99D.22(1)(c) and stayed *that order* until November 1, 2015. *See Benda v. Prairie Meadows Racetrack & Casino, Inc.*, 989 N.W.2d 184, 189 (Iowa 2023). But the Commission staying its own order, on its own motion, in the specific declaratory order proceeding, is materially different from staying the concurrent license application process as Petitioners ask here.

Finally, denying a stay will not cause prejudice to Petitioners because the Commission intends to resolve the petition for declaratory order, either by issuing an order or by declining to issue an order on the merits, no later than the scheduled

meeting in February 2025 at which a vote on the pending Linn County license application is expected to occur.

Accordingly, the request for stay is denied. But Petitioners' request for a declaratory order regarding Iowa Code section 99F.7(11) remains subject to further proceedings as discussed below.

II. TIMELINE FOR DECLARATORY ORDER PROCEEDINGS

A. *Affected or interested parties.* The petition lists Linn County Gaming Association, Inc. (LCGA) and Cedar Rapids Development Group, LLC (CRDG) as persons potentially affected by or interested in the questions presented in the petition. Petitioners submitted a certificate of service in accordance with Iowa Administrative Code rule 491—2.25(1) indicating that Petitioners served LCGA and CRDG with the petition, thereby providing notice to those organizations. In addition, under Iowa Code section 17A.9(3) and Iowa Administrative Code rule 491—2.21, Commission staff notified the Civil Division of the Linn County Attorney's Office of the petition.


Those who have specifically received notice, and any other person who qualifies as an intervenor, may intervene in the declaratory order proceedings by submitting a petition for intervention in accordance with Iowa Code section 17A.9(4) and Iowa Administrative Code rule 491—2.22. Petitions for intervention must be filed by **December 9, 2024.**

B. *Written comment.* Under Iowa Administrative Code rule 491—2.26, the Commission may solicit, and any person may submit, comments on the questions

raised in a petition for declaratory order. Accordingly, any person who does not intervene in the proceedings but wishes to provide written comment on the subject of the petition may do so by mail to Iowa Racing and Gaming Commission, 6200 Park Ave., Suite 100, Des Moines, IA 50321, or by email to irgc@iowa.gov. Those submitting written comments should be aware that written comments of this nature are generally considered open records available for public inspection under Iowa law. Comments submitted through these methods will be accepted through **January 3, 2025**.

C. *Further schedule.* After the time for intervention has passed, the Administrator will issue a further schedule and distribute that schedule to Petitioners and all intervenors. The schedule will include a time for submitting briefs, if any; a date, time, and location for any further informal meeting under Iowa Administrative Code rule 491—2.26; an opportunity for oral presentation before the Commission, if any; an anticipated date of decision on the petition; and any other relevant matters the Administrator deems appropriate.

Dated: 11-26-2024



Daryl Olsen, Chair
Iowa Racing & Gaming Commission