

ORDER 2009-147

RATIFYING TWO PREVIOUSLY AWARDED INTERIM WAIVERS AND APPROVALS OF THE DEBT ISSUANCE PLAN PROPOSED BY PENN NATIONAL GAMING, INC.

Under IC 4-33-4-21 and 68 IAC 5-3-2, the Indiana Gaming Commission (“Commission”) reviews proposed debt transactions to analyze the financial health of riverboat licensees and to ensure that a riverboat owner’s license is not leased or hypothecated, and that money is not borrowed or loaned against a riverboat owner’s license.

The Commission has considered the following factors:

1. In a letter dated July 2, 2009, Penn National Gaming, Inc. (“Penn”), through counsel, requested Commission approval to implement a comprehensive debt issuance plan and requested a waiver of the applicable procedural requirements set forth in 68 IAC 5-3.
2. Specifically, Penn sought to: (1) issue up to \$1 billion in senior subordinated notes; and (2) amend its Senior Secured Credit Facility. The proceeds of the notes would be used to pay down and/or refinance existing senior secured debt. The amendment would primarily allow for a temporary increase in the capacity of the company’s senior secured revolver.
3. Subsequent to its initial July 2nd letter, and in order to issue a portion of the proposed senior notes as promptly as possible, Penn asked that the Commission consider its debt issuance plan in two separate increments.
4. In accordance with Resolution 2008-74, after analyzing Penn’s proposal, consulting with Commission financial analyst Dr. Charlene Sullivan, and receiving the requisite concurrence from Chairman Murphy, Executive Director Yelton issued two separate interim approvals and waivers of 68 IAC 5-3-2, via letters dated August 7 and August 31, 2009.
5. Subject to certain enumerated conditions which are hereby incorporated into this Order, the letters authorized closing of various transactions without receiving prior approval from the full Commission or satisfying the “two meeting requirement” of 68 IAC 5-3-2(b)(2) and (3). The August 7th letter authorized Penn to issue up to \$500 million in senior notes. The August 31st letter authorized Penn to: (1) amend its Senior Secured Credit Facility, and (2) issue, when combined with the notes previously issued pursuant to the August 7th letter, up to a total of \$1 billion in senior notes.
6. Resolution 2008-74 requires that the Executive Director’s interim approvals and waivers be reported to the Commission at the next business meeting held under 68 IAC 2-1-5. Also, 68 IAC 5-3-7 requires that the waivers be reported to the Commission in order that it may have the opportunity to direct the Executive Director to take additional or different action.
7. The Commission members have received the confidential financial analysis from Dr. Sullivan and the Executive Director’s interim approvals and waivers.

Based on the foregoing, the Commission hereby **RATIFIES** the Executive Director’s August 7 and August 31, 2009 interim approvals and waivers.


IT IS SO ORDERED THIS THE 17TH DAY OF SEPTEMBER, 2009.

THE INDIANA GAMING COMMISSION:



Timothy Murphy, Chair

ATTEST:



Marc Fine, Secretary