

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Application of Rasier, PA, LLC : Docket No. A-2014-2416127

**BRIEF OF THE INSURANCE FEDERATION OF PENNSYLVANIA IN
OPPOSITION TO THE APPLICATION OF RASIER PA, LLC**

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STATEMENT OF THE CASE

This case involves an application for a new form of taxi service – the recruitment and coordination of nonprofessionals to become part-time taxi drivers finding riders over the internet. The Insurance Federation of Pennsylvania, Inc. filed a Protest to the application for inadequate insurance. Hearings on insurance issues were held, and limited discovery on insurance issues was allowed. Throughout, the Federation’s concern has been that the application show proper insurance and general protections of the public. The question before the Commission is whether the application shows this. The answer is no.

PROPOSED FINDINGS OF FACT

1. The insurance Rasier-PA LLC (“Rasier”) proposes in these Applications is divided into three stages: Stage 1, when the Rasier driver is using and is available on the Lyft platform (“on app”) but is between trips with passengers and is prior to being matched with passengers; Stage 2, when the Rasier driver has accepted and is matched with a trip request through the app; and Stage 3, when the Rasier driver is in the process of a trip with the Rasier passenger. Rasier’s Answers to Insurance Federation Interrogatories 1 and 2.

2. The insurance Rasier proposes in Stages 2 and 3 is primary only for a driver's personal auto policy, not any commercial policy or endorsement that may cover the vehicle. Rasier Exhibit 5.
3. The insurance Rasier proposes in Stages 2 and 3 does not provide for coverage when a driver has discharged a passenger and is returning from that ride, if logged off from the Rasier app. Testimony of Rasier witness Henry Fuldner, pp. 640-641, 656-658, 679-681.
4. The insurance Rasier proposes for collision and comprehensive coverage is contingent on its driver's having such coverage, too, and with a \$2,500 deductible. It is unclear whether this coverage applies during all three stages and whether it is contingent on the driver's personal auto insurance being unavailable or the personal auto insurer declining coverage. Rasier Application.
5. Rasier regards its drivers as "nonprofessionals" and does not ask if they have experience in the commercial activity of transporting passengers for hire, whether in their own or other vehicles, and does not ask if they have any experience with commercial insurance coverage and exposure. Fuldner testimony, pp. 533-534, 543; Testimony of Insurance Federation witness Jonathan Greer, p. 692-693.
6. Rasier does not propose any independent or ongoing verification of its drivers' personal insurance policies beyond requesting a copy of each driver's Financial

Responsibility card, declarations page or policy at the outset and on the renewal date of the policy listed on such card. Fuldner testimony, pp. 546-548.

7. Rasier does not propose to examine its drivers' personal insurance policies, including any review of the livery exclusions in such policies and any review of whether those policies may be subject to termination or new rates if their insureds become Rasier drivers. Fuldner testimony, pp. 546-548, 651.

8. Rasier does not propose to direct its drivers to notify their personal auto insurers, in writing, of their intent to operate in Rasier's service, or to maintain a copy of any such notices from their drivers to their insurers for any period of time. Rasier's Answer to Insurance Federation Interrogatory 4; Fuldner testimony, p. 516.

9. Rasier does not propose to advise its drivers to check with their personal auto insurers about potential gaps in coverage or potential changes in or cancellation of their personal auto insurance policies, beyond stating at an undefined point and manner that their drivers' personal auto policies may not provide coverage. Rasier's Answer to Insurance Federation Interrogatory 4; Fuldner testimony, pp. 538, 545, 568-569.

10. A person becoming a Rasier driver faces potential changes in that person's personal auto insurance, including possible cancellation or an increase in rate. Fuldner testimony, pp. 539-540; Greer testimony, pp. 686-691.
11. A person becoming a Rasier driver faces possible personal financial liability as a result caused by gaps in the coverage Rasier proposes when matched against whatever personal insurance the Rasier driver may have and any livery exclusions in such insurance. Greer testimony, pp. 686-691.
12. A person becoming a Rasier driver faces possible personal financial responsibility as a result of terms and conditions Rasier imposes on its drivers in its agreements with them. JB Taxi Exhibit A; Greer testimony, pp. 686-690.
13. Rasier's application, in the materials it will share with its drivers and its training program for its drivers – at least as documented in this proceeding – is inadequate in how it will educate its drivers, in a uniform and standard way, on the three stages of insurance and the three insurance policies, and the differences in the stages and the insurance among them. Greer testimony, p. 691.
14. Rasier's application, in the materials it will share with its drivers and its training program for its drivers – at least as documented in this proceeding – is inadequate in how it will educate its drivers, in a uniform and standard way, on their personal

liability exposure under its agreements with them or that may result from its proposed insurance. Greer testimony, p. 693.

15. Rasier's application, in the materials it will share with its drivers and its training program for its drivers -- at least as documented in this proceeding -- is inadequate in how it will educate its drivers, in a uniform and standard way, on how to access Rasier's proposed three stages of insurance, or how to inform passengers or third parties how to do so in the event of an accident or claim. Fuldner testimony, pp. 552-554, 587-590; Greer testimony, p. 690.

16. Rasier does not propose to provide its drivers with insurance cards, declarations pages or copies of the insurance policies covering them in any of the three stages, but will give them a link to a "very brief explanation" from Rasier, not its insurer. Fuldner testimony, 549-552.

17. A thorough claims process, including information on where and how to submit a claim to an insurer and to find out about available insurance coverage from the insurer, is an integral part of any credible and well-regulated auto insurance program. Greer testimony, pp. 690-693.

18. Rasier does not inform its insurer about its drivers or their records, and its insurer is not the initial contact on claims, in contrast to standard and prudent underwriting and claims handling practices in the insurance industry. Fuldner

testimony, pp. 616-618, 655; testimony of Eastern PA Taxi Cab Drivers witness Gene Brodsky, pp. 713-715, 729-730.

PROPOSED CONCLUSIONS OF LAW

1. Rasier has failed to satisfy the insurance requirements in Section 32.11(b) of Title 52 of the Pennsylvania Code applying to passenger carrier insurance.
2. Rasier is responsible for satisfying the insurance requirements in Section 32.11(b) of Title 52 of the Pennsylvania Code applying to passenger carrier insurance during all three stages when its drivers are available, matched or carrying passengers through its platform or app, and also when its drivers are returning from a trip carrying a passenger.
3. The insurance coverage and program proposed by Rasier fails to protect “persons or property of their patrons and the public,” as required by Section 512 of the Public Utility Code, 66 Pa.S.C.A. Section 512.
4. Rasier’s application and its supporting materials and testimony are incomplete and inadequate to demonstrate compliance with the insurance requirements in Section 32.11(b) of Title 52 of the Pennsylvania Code.

5. Rasier's application and its supporting materials and testimony are incomplete and inadequate to demonstrate compliance with the protection of the public and passengers, as required by Section 512 of the Public Utility Code, 66 Pa.S.C.A. Section 512.
6. Rasier's lack of any communication between either it or its drivers with its drivers' personal auto insurers, fails to satisfy the insurance requisites in Section 32.11(b) of title 52 of the Pennsylvania Code and the public protection requirement of Section 512 of the Public Utility Code, 66 Pa.C.S.A. Section 512.
7. Rasier's lack of any meaningful communication with its drivers about possible ramifications on their personal auto policies and personal financial exposure fails to satisfy the public protection requirement of Section 512 of the Public Utility Code, 66 Pa.C.S.A. Section 512.
8. Rasier's lack of any meaningful communications with its drivers about how to handle claims or insurance inquiries in the event of accidents from passengers, third parties or law enforcement fails to satisfy the public protection requirement of Section 512 of the Public Utility Code, 66 Pa.C.S.A. Section 512.

PROPOSED ORDERING PARAGRAPHS OF THE RELIEF SOUGHT

1. Rasier's application is disapproved for failure to satisfy the Commission's insurance requirements for passenger carriers; for failure to adequately explain the parameters and conditions of its proposed insurance in the applications and supporting materials; for failure to secure notification to its drivers' personal auto insurers; for failure to educate its drivers about their insurance considerations; and for failure to provide a system for educating and training its drivers and passengers on how to process claims and seek insurance coverage.
2. Rasier's application is remanded for revisions and further hearings on all of the aforementioned failures.
3. For Rasier's application to be approved, it should affirmatively establish, with an affidavit or testimony from its proposed insurer or the production of the insurance policies themselves, primary insurance coverage of its drivers and their vehicles in the amounts and benefits set forth in Section 32.11(b) of Title 52 of the Pennsylvania Code during all three stages, and on any return from a completed trip.
4. For Rasier's application to be approved, it should affirmatively establish, with an affidavit or testimony from its proposed insurer or the production of the insurance

policies themselves, that its coverage is primary as applied to any other coverage, personal or commercial, of its drivers.

5. For Rasier's application to be approved, it should affirmatively establish that its insurance coverage is primary and applicable irrespective of other agreements, terms or conditions with its drivers, and irrespective of whether its drivers' personal insurance, vehicle registration or license are in force. This shall include an affidavit or testimony from its proposed insurer, the production of the insurance policies themselves and any agreements, terms and conditions Rasier has with its drivers or passengers.
6. For Rasier's application to be approved, it should demonstrate that it instructs its drivers to notify their personal auto insurers, and it should obtain copies of its drivers' notifications consistent with the Commission's July 24, 2014 ETA Order.
7. For Rasier's application to be approved, it should demonstrate a program whereby it advises its drivers to consult with their personal auto insurers about potential gaps in coverage or potential changes in or cancellation of their personal auto insurance.
8. For Rasier's application to be approved, it should demonstrate a program whereby it educates its drivers on the insurance coverage it provides them, specifically

including any materials describing that coverage and copies of such coverage, and a process for its drivers to contact it with any insurance questions.

9. For Rasier's application to be approved, it should demonstrate a program whereby it educates its drivers on proper handling of claims in all three stages, specifically including the information to be provided to passengers and third parties with potential claims, and to law enforcement authorities. Such information shall include how drivers, passengers and third parties with potential claims are to contact Rasier's insurer, not just Rasier.
10. For Rasier's application to be approved, it should present at a later hearing a person from its proposed insurer qualified to answer questions about its proposed insurance.
11. In the interim, the Commission's July 24, 23014 ETA Order granting Rasier emergency temporary authority is suspended.

SUMMARY OF ARGUMENT

Rasier's application is not ready for the Commission's approval; Rasier's taxi program is not ready for Pennsylvania consumers.

This application presents the Commission with a potential breakthrough in how passenger carrier services can be provided in Pennsylvania. Rasier proposes new technologies to enable “nonprofessionals” to become part-time cabbies, using their own cars as taxis. It hails this as a miraculous innovation, providing greater efficiency in personal transportation throughout the Commonwealth, valuable supplemental income for people who never envisioned being taxi drivers, the potential for economic development in new areas, a potential easing of road congestion and even an improved environment.

All that may be true. But for all the hype, the application doesn't propose adequate insurance or adequate insurance education and training for Rasier's drivers, its passengers and the general public, and it leaves unanswered several crucial insurance-related issues. As such, the application fails to truly protect the public – and that protection is a core standard of the Commission's review.

First, the insurance Rasier proposes may not be in the amount and for the benefits required in the Commission's regulations. Rasier says it is amending its application so that its coverage will be primary during all three stages. But it hasn't put that in writing,

and it hasn't produced a policy doing this for Stage 1 when its drivers are "on app", available for passengers but not yet matched with or transporting passengers them. Further, its application is unclear on whether Rasier's insurance in any of the three relevant stages will apply without exception, given vagaries in the proposed policies themselves and the conditions in Rasier's other documents and agreements with its drivers and passengers. And the application fails to provide coverage when a driver is returning from a trip.

Second, Rasier fails to provide any meaningful education of its drivers – who it admits are neophytes as part-time cabbies – on their insurance exposure and how they should handle claims. As such, its drivers' understanding of whatever insurance Rasier provides is inadequate; whatever problems it may create for the drivers' personal insurance, obscured; and whatever is to be done in the event of a claim, nonexistent. That puts the drivers at risk, and it puts passengers and other parties at risk: Rasier's drivers are ill-equipped to understand and explain their Rasier coverage and the processing of claims under that coverage when accidents inevitably occur.

Rasier's application must therefore be disapproved or remanded to ensure that Rasier provide primary coverage during all stages of its drivers' being available for, matched with and transporting passengers; and that it provide meaningful notice and education to its drivers on insurance and claims issues and processes. Innovation is great. Inadequate, ill-explained and illusory insurance is not.

ARGUMENT

1. Pennsylvania's insurance requirements for Raiser's applications all go to the need for public protection.

Section 512 of the Public Utility Code, 66 Pa.C.S.A. Section 512, sets forth the general objective and authority for the Commission to require insurance in this instance:

“The commission may, as to motor carriers, prescribe, by regulation or order, such requirements as it may deem necessary for the protection of persons or property of their patrons and the public, including the filing of surety bonds, the carrying of insurance, or the qualifications and conditions under which such carriers may act as self-insurers with respect to such matters.”

The Commission's regulations, at Section 33.11(b), provide further detail on the required insurance:

“The liability insurance maintained by a common or contract carrier of passengers on each motor vehicle capable of transporting fewer than 16 passengers shall be in an amount not less than \$35,000 to cover liability for bodily injury, death or property damage incurred in an accident arising from authorized service. The \$35,000 minimum coverage is split coverage in the amounts of \$15,000 bodily injury per person, \$30,000 bodily injury per accident and \$5,000 property damage per accident. This coverage shall include first party medical benefits in the amount of \$25,000 and first party wage loss benefits in the amount of \$10,000 for passengers and pedestrians. Except as to the required amount of coverage, these benefits shall conform to 75 Pa.C.S. Sections 1701-1799.7 (relating to Motor Vehicle Financial Responsibility Law). First party coverage of the driver of certified vehicles shall meet the requirements of 75 Pa.C.S. Section 1711 (relating to required benefits).” 52 Pa.Code Section 32.11(b)

The Commission added more clarity to its insurance requirements for this service in its July 24, 2014 Order granting Raiser emergency temporary authority to operate in

Allegheny County. That Order examined the stages of activity of Rasier drivers, and determined Rasier must provide primary coverage insurance in at least the amounts set forth in Section 32.11(b) for the following three stages:

Stage 1 – Driver opens the App and is soliciting rides.

Stage 2 – Driver receives and accepts a ride request and travels to pick up the passenger.

Stage 3 – Driver picks up the passenger, drives the passenger to the destination, and the passenger exits the car.

In that Order, the Commission also recognized the connection between the insurance Rasier should provide to its drivers throughout all three stages, and the “valid and current liability insurance” from personal auto insurers that Rasier requires of all its drivers and their cars. The Commission ruled:

“[I]n order to avoid any confusion regarding the status of a driver’s personal insurance coverage, we will require Rasier to direct all operator/drivers to notify their insurer, in writing, of their intent to operate in Rasier’s service. Rasier is required to maintain a copy of this notification for each operator/driver during that driver’s affiliation with Rasier and for a period of three (3) years following termination of an operator’s/driver’s service. Additionally, Rasier must notify drivers/operators, in writing, whether it is providing comprehensive and collision coverage during service. Rasier must maintain copy of each notification for a period of three (3) years following termination of an operator’s/driver’s service.”
p. 18 of the Commission’s July 24, 2014 ETA Order

The thrust in all this is to protect the public by ensuring clear and accessible insurance coverage for passenger carriers, whether conventional taxis or Rasier. It is not a balance test – nothing suggests the insurance requirements should be less stringent depending on the innovation or market desire for a particular application. Insurance can sometimes seem a wet blanket when required of newly popular services, but it is a vital component

in all passenger carrier services, with the Commission given considerable latitude to ensure every passenger carrier has meaningful coverage to protect the public.

2. Rasier's proposed coverage needs further disclosure to determine whether it satisfies the Commission's insurance requirements.

Rasier now says it will provide primary coverage in at least the amounts set forth in Section 32.11(b) of the Commission's regulation during all three stages of engagement – that there is nothing contingent about its coverage. That may be easier said than shown.

First, Rasier refused to supply a copy of the policy it proposes for Stage 1 coverage, which has been the most contested area of coverage here and across the country. That's in contrast to its providing a copy of its policy for Stages 2 and 3 (granted, it only did that on the day of the hearing – hardly sufficient for adequate examination). It never explained why it is comfortable with disclosure of its proposed policy for Stages 2 and 3 but not Stage 1, beyond vague assertions of some proprietary features in its Stage 1 coverage and possible differences between its proposed Stage 1 coverage and that it is now providing pursuant to the ETA Order.

The Commission should require full disclosure of Rasier's coverage at all three stages, and that means copies of its proposed coverage and written and detailed descriptions of them – including its proposed Stage 1 policy. Stage 1 is no different than Stages 2 and 3 in terms of the public's need for the protection of clear and accessible insurance coverage. The chance to examine its coverage during Stage 1 is just as important as in

Stages 2 and 3, and that includes disclosing the policy, not just talking about it and making promises of future changes.

From the brief review of the insurance policy Rasier chose to disclose, there are other gaps and uncertainties in its proposed insurance coverage that merit the disapproval of this application.

First, Rasier's agreements with its drivers and passengers have a variety of disclaimers and exclusions that may negate the coverage Rasier purports to provide. Among the terms:

"The Company... has no responsibility or liability for any transportation services provided to you [the passenger] by such third parties [the Rasier/Uber driver]."

"By entering into this Agreement and using this Application or Service, you [the passenger] agree that you shall... hold the Company... its subsidiaries [and] affiliates... harmless from and against any and all claims... arising out of or in connection with... your use ... of the Application or Service."

"You acknowledge and agree that the entire risk arising out of your use of the application and service, and any third party services or products remains solely with you, to the maximum extent permitted by law."

"The Company and/or its licensors shall not be liable for any loss, damage or injury which may be incurred by you, including but not limited to loss, damage or injury arising out of, or in any way connected with the service or application...."

JB Taxi Exhibit A, pp. 2 and 7-8.

Rasier never explained the impact of such separate agreements with its drivers and passengers on its insurance coverage, instead saying its insurance coverage would always

be there. That sounds great, but it can't be reconciled – at least based on what Rasier has put before the Commission - with its unilateral agreements that say just the opposite.

Second, Rasier's proposed coverages lack some of the benefits required in the Commission's regulations: Its Stage 1 coverage may not contain first party benefits for either the driver, passengers or pedestrians, and may not provide for a split of coverage in any amount for bodily injury per person or per accident and property damage per accident. And Rasier's Stages 2 and 3 coverage may not provide for a split of coverage in any amount for bodily injury per person or per accident and property damage per accident.

Further, Rasier's coverage – certainly for Stages 2 and 3 and probably for Stage 1 (an unknown absent a copy of the policy) - is primary only as to a driver's personal auto insurance, not any commercial policy or endorsement. If that exists (as with a car the driver uses for business use), Rasier's coverage become "excess" – in other words, contingent – to the other coverage.

Finally, Rasier's Stages 2 and 3 coverage leave unanswered any coverage when a driver is returning from a ride – as with backing into something or someone while leaving a passenger's driveway. That period isn't expressly contemplated in the Commission's July 24 ETA Order, but it should be here, with an affirmative duty on Rasier to provide primary coverage.

Much of the Commission's attention, and much of the national attention, on the insurance coverage to be required of Rasier and similar entities has focused on whether coverage during Stage 1 should be contingent, and it is encouraging that Rasier promises its coverage will be primary at all three stages.

But that should be equally verified at all three stages – meaning a review of the policies, not just a verbal assurance from Rasier. And that review should include not just Rasier's proposed policies, but an examination of its agreements with its drivers and passengers that appear to alter the terms of its proposed insurance. Proper protection of the public demands nothing less.

3. Rasier's application fails to provide any notice to its drivers' personal auto insurers despite its admission of the problems its drivers may face.

The Commission's July 24 ETA Order instructed Rasier to notify its drivers of their need to inform their insurers of becoming Rasier drivers. The logic behind that is compelling: Rasier professes the importance of its drivers having personal auto insurance as a condition of being a Rasier driver. And as the Insurance Commissioner has noted, and the Insurance Federation's witness testified without even mild rebuttal from Rasier, a Rasier driver may face cancellation or other exposure under his personal auto insurance: The driver should notify his personal insurer of his new occupation, both for self-protection and the public's protection.

Rasier was dismissive of this, both going forward and in complying (or not complying, as appears the case) with this requirement in the ETA Order (further proof of the need for a “trust but verify” standard here). Its witness said the requirement would be unduly burdensome on it and would serve no purpose – at least for Rasier. It said it isn’t a party to its drivers’ policies with their personal insurers, so it doesn’t want to give any notice.

That’s ludicrous. Rasier was unable to explain what is so onerous in giving this notice, certainly in the context of its other requirements and monitoring of its drivers; its apparent standard of an undue burden is an obligation that doesn’t directly benefit it, as opposed to its drivers, passengers or the public.

Rasier itself made the case for the notice the Commission established in its July 24 ETA Order. It said it does tell its drivers that “their personal auto insurance policy may not provide coverage.” It didn’t say when or how it makes this disclosure, or what else comes with this – but it at least acknowledges, however obliquely, that its drivers may face issues with their personal auto insurers and may face liability exposure that neither Rasier nor their personal insurers will cover.

Its witness – its Director of Insurance – went further. He said he would encourage and recommend that Rasier’s drivers to investigate the scope and coverage of their personal auto insurance. Those were apparently only his personal views, though: Rasier itself does none of this, and it never showed how it gives even its brief and incomplete warning to its drivers that their personal auto insurance may not cover them.

The Insurance Federation's witness testified, and the Insurance Commissioner and regulators across the country have issued consumer alerts, on this: A person becoming a Raiser driver may face cancellation or other exposure and ramifications, including an increase in premiums, under his personal auto insurance; and he may face personal exposure where neither his personal insurance nor that of Rasier apply. Notably, Rasier neither questioned nor rebutted the Federation's witness on this.

The contingencies and uncertainties in Rasier's proposed insurance coverages heighten the importance of notifying the driver's personal auto insurer: Its agreements with its drivers and passengers present caveats and conditions that suggest the drivers, not Rasier, are responsible for any damages; again, that could mean either exposure to, or cancellation or re-rating of, its drivers' personal auto insurance policies as well as personal liability for its drivers.

Providing meaningful notification to the driver's personal auto insurer is hardly an impossible or impractical administrative burden – just the opposite, it is the least Rasier should do for its partners. Given the uncertainties Rasier admits its drivers face in terms of personal insurance and personal liability, the Commission should require not just notice to but meaningful communication with its drivers' insurers, and from the outset, not just the time of claim.

4. Rasier’s application fails to provide any meaningful education or training to its drivers or its passengers about their insurance exposure and their responsibilities and the process in handling claims.

Rasier boasts of its “nonprofessional drivers” as people who otherwise would never have become part-time cabbies and who have no experience as commercial passenger carriers. It boasts of the training its drivers go through. It boasts about its ongoing monitoring of its drivers, claiming it will keep only the good ones “on app.” And it boasts of a sincere commitment to its drivers, referring to them as its “partners.”

It doesn’t boast of any education or training of its drivers about their insurance exposure or how they are to handle claims in the three stages, and it doesn’t boast of any education to its passengers about their own insurance exposure or how to make claims.

It can’t: Based on these applications, it doesn’t have much in the way of any such education or training program.

That is a disservice to unsuspecting drivers and passengers. Rasier knows the insurance exposures its drivers face with their personal insurance, and with their personal liability. Whether cautioned by the Insurance Commissioner here, or any number of other regulators and legislators across the country, issues of insurance and personal liability for drivers have been prominent.

The Insurance Federation’s witness testified about the potential insurance problems for drivers, passengers and the public caused by Raiser’s proposed insurance, emphasizing

the need for drivers to get hard facts on their Rasier's coverage and to check with their own agents and insurers. And Rasier's agreements with its drivers and passengers contain considerable fine-print in their terms and conditions, fine-print its witness never explained.

Again, Rasier never challenged or rebutted the Federation's witness on this. Its Director of Insurance essentially agreed that becoming a driver creates insurance problems for that driver, problems that merit thorough scrutiny and a conversation with the driver's personal insurer. And yet he couldn't point to a program for how Rasier will tell its drivers about this – even though Rasier admits its drivers are new to becoming commercial operators and the ramifications of that. He was unable to point to such a program because it doesn't exist, and Rasier has no intention of establishing one.

Insurance issues always come up. The Commission should make sure Rasier has done what it can to educate its drivers from the beginning. For all its talk about a partnership with its drivers and riders, when it comes to informing them about insurance issues, it just isn't there.

Rasier also fails to plan for any education or training of its drivers in handling claims, at least as set forth in this application. It doesn't provide them with copies of the policies it says will cover them, or any meaningful outline of such coverage – or any information on how to contact its insurer, who presumably has the final say on its coverage and terms. It

doesn't provide them with a financial responsibility card with the pertinent information of where to go with a claim.

And it doesn't educate its drivers on what to do in the event of a claim – how to report it, how to inform passengers and third parties of where to go with a claim, or what the claims handling process will be. Its witness could point to no standard program it has to guide its drivers, passengers or others in how to submit a claim. While he said Rasier drivers are told to produce evidence of their Rasier coverage in the event of an accident in any of the three stages, he could point to nothing specific, uniform or institutional on that.

Curiously, Rasier's witness also said its drivers are instructed to notify it of claims, and it will handle reports to its insurers. That makes no sense – certainly not to the insurer who is responsible for evaluating, defending and handling the claim.

For insurance to be meaningful – to be “real” insurance that protects rather than confuses the public – it has to be understood by the insureds and those it covers. And for a claims process to work, especially one with multiple policies and maybe multiple carriers and maybe a number of exclusions, contingencies and caveats, there has to be transparency in the claims process – or at least a process. Rasier provided nothing specific on this, and its witness was decidedly vague when asked. If Rasier does have a clear claims process, the witness was unable to identify it, and unable to show how its drivers are told about it.

In the world of insurance, education and training, and clear understanding of parameters of coverage and how to process claims, are a given. The Commission should make them a given for Rasier, too.

5. The Commission should reject Rasier's evasiveness in providing information and answering questions about the insurance it proposes and the education and training of its drivers on insurance and claims handling.

Throughout the application process, Rasier has been evasive in explaining the insurance it proposes and the education and training of its drivers (and its passengers) on insurance and claims issues. It produced one insurance policy – its policy for Stages 2 and 3, but never its Stage 1 policy – and only on the day of the hearing, hardly sufficient time for proper review and questioning. Its answers to other interrogatories and discovery requests also came late in the proceedings. It produced nothing on the education and training of its drivers on insurance and claims handling.

It also said it is planning to make material changes to its application with respect to complying with the Commission's insurance requisites – but it has only done so orally (and partially in answer to the Insurance Federation's interrogatories and the Federation's cross-examination). It hasn't produced anything in writing for the Commission, despite this being a unique and unprecedented application.

Rasier isn't trying to satisfy the Commission's requisites of insurance coverage and consumer protection – it is trying to evade them.

For all its promises of innovation, for all its talk of a partnership with its drivers, and for all its professed devotion to its passenger, Rasier – at least in this application – has done just the opposite. It has blocked and obscured any reasonable investigation of its proposed insurance coverage, and it has been unresponsive and vague in explaining its education and training of its drivers and passengers.

Why the secrecy? Rasier argues the Commission doesn't usually delve into this. Maybe not. But the Commission has never been presented with this type of service, either.

Rasier could have easily answered the concerns of insurance coverage, and proper education and training of its drivers, that have been prominent in these proceedings and in the Commission's handling of its ETA application: None of those concerns should come as a surprise to Rasier, as these issues are being raised across the country.

Rasier deliberately decided to do just the opposite: It has produced as little as possible, been as unresponsive as possible, and been as untimely as possible to questions about its insurance and its education and training of its drivers; it has approached any questions in this area with a haughty smugness that has thwarted any meaningful inquiry into whether this application is ready for Pennsylvania consumers.

The Commission should send a clear message that such evasiveness will not be tolerated, much less rewarded.

6. Conclusion – There is a need for verification on Rasier’s insurance, and a need for Rasier’s insurer to come forward.

Rasier suggests the Commission need not worry – that Rasier’s insurer will file a Form E certifying it is providing Rasier with all the needed insurance, along with a Form F that its insurance will match with whatever the law ultimately is regardless of the language in the policies.

That is woefully inadequate. If ever the Commission should approach an application with a “trust but verify” stance, this is it. Rasier seems to adjust its coverage on the fly – it now proposes major changes from its original application, but it won’t detail them in writing. And to say it will adjust its policies to cover whatever the law requires begs the question of what the law requires. Granted, it may be impossible to anticipate and answer every scenario. But the purpose of an insurance policy is to answer – in advance, not after a protracted legal process – the parameters of coverage. Rasier has resisted this.

Rasier’s own conduct should put the Commission’s emphasis on verification over trust. It claims it is complying with the Commission’s ETA Order – its insurer filed a Form E as “proof”. But it cavalierly admits it is not requiring its drivers to notify their insureds, much less get documentation of that. And yet it asks the Commission to take its word about proper education and training of its drivers and passengers on insurance and claims, and having proper coverage even if it won’t produce all the policies?

The Commission should be wary. It should require that Rasier be open about its insurance coverage, with its drivers, with the public and with the Commission – and the Commission should establish ongoing monitoring of that. An order is only as effective as the compliance with it, and Rasier’s conduct under the ETA raises serious concerns.

Further, the Commission should require that Rasier bring in its insurer to answer questions. Rasier’s relation with its insurer – a surplus lines carrier and therefore without any Guaranty Fund protection if it goes under – is highly unusual: It found an insurer willing to take on unique risks without doing any background check on the drivers or cars it insures. And it found an insurer willing to have claims filtered through (and maybe handled by) Rasier, even though it is purportedly the one responsible.

Rasier may not want scrutiny of such lax insurance. But the Commission should, and should require much more than a cursory form letter of certification from Rasier’s insurer – it should require submission of the policies themselves, and it should conduct a thorough review and questioning of the policies and the insurer.

The innovation Rasier offers comes with risks – such is true for all innovations. The Commission should do all it can to ensure the public’s protection as well as its benefit before this innovation enters Pennsylvania. So far, Rasier’s application is heavy on the benefit but inexcusably light on the protection. Until that is corrected, the Commission should reject it.

Respectfully submitted,

A handwritten signature in cursive script that reads "Sen Marshall".

Samuel R. Marshall (PA ID No. 33619)

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In Re: Application of Rasier, PA, LLC : Docket No. A-2014-2416127

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

Via First Class Mail and/or E-Mail

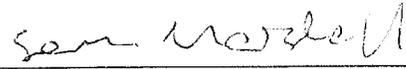
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Dated this 15th day of September, 2014, in Philadelphia, Pennsylvania