

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In Re: Application of Rasier, PA, LLC       :       Docket Nos. A-2014-2416127 and  
  :       A-2014-2424608

**The Objections of the Insurance Federation to the Rasier-PA LLC Compliance Plan**

**Introduction**

Rasier-PA LLC (“Rasier”) has filed a Compliance Plan that, like so much of what Rasier has done throughout this proceeding, professes much but offers little. The Plan is so cursory, so presumptive and so incomplete that it can’t be said to technically or minimally satisfy the Commission’s December 5, 2015 Order with respect to insurance. And it certainly can’t be said to comply with the overriding objective of making sure Rasier drivers and their cars will be properly, knowingly and accountably insured when operating in this Commonwealth.

The Commission should rule that Rasier’s Compliance Plan is incomplete and inadequate with respect to the insurance conditions in its Order, and it should withhold issuing a Certificate of Public Convenience until Rasier files a Plan that meaningfully complies with those conditions.

**The Shortcomings of Rasier’s Compliance Plan  
With Respect to the Commission’s Insurance Conditions**

**1. Insurance coverage during Stages 1 through 3 – primary and in what amounts**

The Commission’s Order, at p. 55, says it “will accept the Applicant’s proposed insurance levels during these periods [Stages 1 through 3] as being in compliance with our Regulations” but with several additional terms, including that Rasier’s coverage during all three stages “must be the primary coverage, regardless of any insurance coverage held by its Operators.” The Order’s Appendix A says Rasier must file a Form E certificate affirming this level of coverage.

Rasier’s Compliance Plan claims it has done this, as evidenced by the Form E certificate filed on December 19 by James River Insurance Company, a surplus lines carrier.

The Form E certificate, however, does not outline the coverage in the underlying policies that purportedly satisfy the insurance the Commission requires. Instead, the certificate only says that the Stage 1 policy is “liability limits \$50K/\$100K/\$25K”, and that the Stages 2 and 3 policy is “liability limit \$1,000,000.”

That means nothing. The Commission can only hope Rasier is more forthcoming in describing this insurance to its drivers and any claimants. First, those brief descriptions do not appear to match or exceed the minimum coverage required in Section 32.11(b) of

the Commission's regulations; for instance, there is no mention of coverage for property damage or first party wage loss benefits.

Second, those descriptions are so brief as to make it impossible to know just what coverage is being provided. We went through this drill at the administrative hearing: The policies Raiser belatedly and reluctantly produced weren't clear on the coverage provided, as there were caveats and questions throughout.

The Commission should examine the underlying James River policies and any endorsements. The Form E certificate is evidence of little more than that there are two policies, which may or may not provide the coverage the Commission and its regulations require. In fact, the brief "descriptions" of the coverage – so brief that to label them "descriptions" is a stretch – suggest they do not do that, or at least raise questions. Without looking at the policies themselves, the Commission has no way of verifying this.

## **2. Insurance coverage during Stage 0 – “valid and current liability insurance”**

The Commission's Order, at p. 56, says “with respect to Stage 0, the Commission accepts Raiser-PA's proposal to require its Operators to provide proof of valid and current liability insurance....”

Rasier falls short of this in its Compliance Plan: It proposes that it “requires drivers to maintain and provide proof of liability insurance during the sign-up process, and annually thereafter, covering Stage 0...”

First, that’s significantly different from the Commission’s Order, which requires current liability insurance “during this period” – an ongoing requisite. Rasier’s Compliance Plan takes an annual snapshot approach, which is far more limited: It wants to look at one day, not the full year. Rasier has suggested it cannot maintain ongoing verification of its drivers’ insurance coverage. That is an embarrassingly weak excuse from an outfit that prides itself on its technological abilities to know and follow all; car loan and car lease companies are able to set up programs for ongoing verification of coverage (mortgage companies do the same with homeowners), so Rasier can start by looking there.

Second, Rasier says it requires this, at least once a year, but it doesn’t say how it will do this. The purpose of the Compliance Plan should not be to repeat, albeit with subtle but significant changes, the Commission’s Order. It should be to explain how it will comply with the Order. Rasier doesn’t do that, here or with any other part of its purported compliance efforts. Notably, it doesn’t suggest any verification with its’ drivers’ insurers, which is the one sure way of knowing if the driver has the requisite insurance. As the Commission has noted, “trust but verify” is a fair standard, for Rasier’s drivers as well as Rasier itself.

Rasier's failure to explain "how" – here and with the rest of its Compliance Plan - will mean not just an invitation to non-compliance by Rasier, but an inability for the PUC to effectively and efficiently monitor Rasier's compliance efforts. We are mindful of the Commission's limited enforcement resources, as is Raiser. The Commission should make sure Rasier's Compliance Plan is capable of being readily monitored. The Commission can't determine that without knowing how, not just whether, Rasier intends to verify that its drivers have proper coverage during Stage 0.

Stage 0 coverage is not an afterthought, or icing on the cake. It is the starting point in the process: Unless a driver has insurance coverage during this stage, it may not matter what coverage Rasier provides in the other stages, because the driver and his vehicle are operating unlawfully. That goes to the importance of ascertaining from Raiser what happens with its coverage at Stages 1 through 3 if a driver fails to have Stage 0 coverage: Will Rasier still cover accidents during those stages if a driver turns out not to have valid coverage during Stage 0? That question was never fully answered in the administrative hearing, with Rasier suggesting it was moot because its drivers would always have that Stage 0 coverage. That's great – but that requires ongoing monitoring, not just an ill-explained annual snapshot from with the driver and no verification from the his insurer.

### **3. Clear and adequate information to the drivers of their Rasier-provided insurance coverage in Stages 1 through 3**

The Commission's Order requires, at p. 56, that "Rasier-PA shall clearly and adequately inform drivers, in writing, of the levels of insurance coverage provided during Stages 1, 2 and 3, including whether it is providing comprehensive and collision coverage during service...."

As with everything else related to the Commission's insurance conditions, Rasier's Compliance Plan is so cursory as to be nonresponsive. It says it will inform its drivers of its insurance coverage electronically during the driver sign-up process. The coverage it outlines in its Compliance Plan is awash in technical terms – perhaps correct, but without any explanation. It is more likely incomplete, too, at least based on the two-line description in the James River Form E certificate.

That isn't clear or adequate. First, the "driver sign-up" process may itself be convoluted, or at least complex in terms of various documents, waivers, requirements and the like. Absent an illustration of how and when Raiser intends to share this insurance information during that process, and an illustration of that process itself, it is impossible to evaluate its clarity or adequacy, as it could easily be lost in the shuffle of other documents.

Second, Rasier's description of its coverage for Stages 1 through 3 is anything but clear or adequate. It has offered an outline, not an explanation, of its coverage, and it has used terms unlikely to be understood by its drivers. That is in contrast to how insurance

policies issued to consumers work, where the regulatory structure is designed to ensure genuine clarity of terms and conditions. The Commission should require the actual documents Rasier intends to use, and how it intends to share them with its drivers, and decide for itself how clear and adequate they are.

Third, Rasier apparently does not intend to give its drivers printed or printable documentation of this insurance. It makes no mention of providing them with certificates of insurance or copies of the insurance policies themselves, or of telling them who the insurer is. It doesn't explain that there are two separate policies, and it offers nothing about how the drivers can review those policies for themselves. Its drivers are counting on this coverage (it seems the only thing Rasier is providing them - the drivers bear all the other costs). Rasier should explain how its drivers will know the details of this coverage and any limits.

The Commission should be especially vigilant in light of Rasier's past conduct: At the administrative hearing, it didn't produce its insurance policy until the day of the hearing, and even then only after objecting. It wasn't a simple policy, to say the least. A driver will want access to more than the incomplete outline in Rasier's Compliance Plan, especially if he wants to run this by his own insurer to avoid any gaps or personal liability exposure.

#### **4. Instructing drivers on what to do in the event of an accident**

The Commission's Order requires, at p. 56, that Rasier "instruct drivers regarding the appropriate protocol to be followed in case of an accident."

Rasier's Compliance Plan is laughably minimalist: It says only that it will inform its drivers, during the sign-up process and only electronically and as one of four insurance-related subparagraphs, "that in the event of an accident during Stages 1, 2 and 3, drivers shall produce evidence of Rasier-PA's insurance."

What are the drivers to produce? It does not appear they are given any meaningful "evidence" of their Rasier-provided coverage. Rasier makes no mention, by way of example, of giving its drivers an insurance card with a policy number or other identifiable contact information. Given that Raiser proposes two policies, depending on the stage, this needs more disclosure – to the Commission, to its drivers and ultimately to consumers.

From what Rasier has filed in this Compliance Plan, all a driver has is some electronic notification of hard-to-understand coverage that was given to the driver during the sign-up process. From that, Raiser suggests the driver has readily-accessible evidence of his Rasier insurance? That wouldn't satisfy any police officer or any accident victim. It shouldn't satisfy the Commission, either.

More glaring, Rasier's Compliance Plan offers nothing in the way of actual instruction of its drivers on appropriate accident-related protocol. If the only "instruction" is that they produce evidence (albeit non-existent evidence) of their Rasier insurance, drivers and accident victims will be ill-served. Rasier should be required to give true instruction to its drivers – who they should call, within what time frame, what they should say and do with their other insurance, what information they should collect from passengers or other vehicles or accident victims, and how they are to file a report of the accident with Rasier. It should also explain how drivers are to access each of its separate policies – who makes the decision that an accident was in which stage, the driver or Rasier?

Ironically, Rasier has retreated from even the sketchy ramblings it offered in the September hearing on this. At the time, its witness spoke of establishing a program for all its drivers; the witness envisioned drivers reporting accidents to Rasier, and it would handle matters with its insurer, and he thought Rasier would have a standard reporting format. That seemed odd at the time: First, the Rasier witness had few specifics on this, beyond saying all accident claimants should go through Rasier, not its insurer. But at least Rasier hinted at a real program for its drivers, with some direction to them, and some guidance for accident victims, in who to call.

Rasier now doesn't even instruct its drivers on that, instead only offering an obscure notice to its drivers about producing evidence it doesn't give them. That's not a Compliance Plan – that an Avoidance Plan, and thwarts the need for consumer protection when it is most intense, right after an accident.

## **5. Requiring drivers to verify they contact their insurers**

The Commission's Order states at p. 56, "in order to avoid any confusion regarding the status of a driver's personal insurance coverage, we will require Rasier-PA to direct all operators/drivers to notify their insurer of their intent to operate in Rasier-PA's service" – with that direction to be given "conspicuously in written or electronic form" and to be satisfied within a specified period of time. The Commission explained that such notification "serves a critical purpose for drivers and the public by ensuring that the driver's services with Rasier-PA do not result in circumstances of lapsed personal coverage and uninsured motorists on our highways."

Rasier's Compliance Plan again circumvents meaningful compliance. It says it will give a potential driver this notice during the sign-up process, with the driver's verification of compliance not due until 30 days after he has been approved by Rasier and gets activated. That's it for explaining how it plans to comply with this condition, one it fought throughout this proceeding and one it purported to accept but subsequently ignored under the Commission's July 24, 2014 ETA Order – conduct which should make the Commission look for more detail, not the ambiguous and incomplete window-dressing Rasier offers here.

Rasier doesn't provide the documents or an example of the notice it plans to give its drivers. It doesn't even repeat the Commission's requirement that this be conspicuous and in written or electronic form, so there is no way of evaluating whether its direction

satisfies the Commission's Order. It speaks of the driver "review[ing] the terms of his personal automobile insurance policy with his insurer or agent regarding the use of the insured vehicle on Rasier-PA's platform." That's different – and less than – what the Commission required: It wants Rasier to make its drivers "notify their insurer of their intent to operate in Rasier-PA's service" and "to contact their personal automobile insurer regarding any policy impacts that may be caused by operating the vehicle for TNC use."

The Commission recognized the notice should be to the insurer, not the agent, as it is the insurer who handles these types of potential coverage issues. Further, the Commission recognized this is an active inquiry, not just an academic one (insurers handle both) – the driver's intent should be disclosed to the insurer.

The Commission also recognized this direction, and the driver's verification that he has notified his insurers, should be a precondition to becoming a Rasier driver, not an afterthought. The time-frame Rasier proposes invites the types of problems the Commission wants solved. Who knows how much time may pass between when Rasier informs its drivers of this (it apparently happens sometime in the "sign-up process," whatever that means) and when the driver becomes activated on its platform. That could be fairly long – and on top of that, Rasier wants an additional 30 days. That frustrates the purpose behind this notification: Drivers and the public should know of possible ramifications on their personal insurance coverage "prior to the time that insurance coverage may be necessary." Commission's December 5, 2014 Order at p. 57.

Rasier's drivers – the people it professes are its partners – and the public deserve more, and the Commission's Order asks for more. Absent verification from the drivers' personal insurers, not just the drivers, some gaps in this notification may be inevitable. But they are greatly curtailed if the Commission requires that Rasier set the time a driver verifies he has talked to his insurer as prior to his becoming activated by Rasier.

Finally, Rasier's Compliance Plan makes no mention of what it will do if a driver fails to provide verification that he notified his insurer of his intent to be a Rasier driver. Presumably, a driver's failure to provide such notification will mean immediate deactivation from Raiser's platform – but if these proceedings have shown anything, it is that presumptions are a false promise with Rasier.

## **6. The problem of current Rasier drivers**

For better or worse, Rasier already has a number of drivers on its rolls. The Commission's Order applies to all Rasier drivers, not just future ones. That is the only logical result, since the insurance conditions provide protections that are essential for all drivers, passengers and consumers, not just those who may have dealings or claims with only the subset of future Raiser drivers.

Raiser's Compliance Plan, however, is prospective only, applying only to drivers it will obtain in later "sign-ups." We know from the administrative hearing that it hasn't given

its current drivers much information, whether on insurance coverage, accident protocol or notice to their personal auto insurers – so there can be no argument that current drivers should be “grandfathered.” Applying the Commission’s Order to current drivers is not only logical but long overdue.

## **7. Identifying the people responsible for implementation**

The Commission’s Order, at p. 72, requires that the Compliance Plan identify “who will be responsible for implementing each condition” – the necessary ingredient of accountability.

Rasier didn’t include this in its initial filing on December 24, suggesting it doesn’t see ongoing accountability as a priority. It only did so on January 5, which presumably restarts the Commission’s 30 day review clock.

None of the people it lists are designated as having any specific insurance-related functions. Even the primary contact person, Jonathan Feldman, is described as “responsible for overseeing all aspects of regulatory compliance related to statewide market operations, including market entry decisions, the handling of consumer complaints, providing assistance to and suspending drivers, and auditing documents.” Impressive, but there is no mention of insurance.

It is unclear whether and how Mr. Feldman and the others listed by Rasier on January 5 have anything to do with implementing the Commission's insurance conditions: The word "insurance" does not appear in either the titles or job duties of those listed, and the only reference to consumers goes to complaints as opposed to claims. As noted in the sections above, Rasier's Compliance Plan offers veritably nothing on *how* it intends to apply with the Commission's insurance conditions (in addition to misconstruing those conditions). It compounds this problem by also offering veritably nothing on *who* will be responsible for its professed implementation effort.

### **Conclusion**

The Commission's December 5, 2014 Order emphasized that it would not grant Rasier authority to operate until "has demonstrated full and complete compliance with the conditions set forth in this Opinion and Order." The Commission noted it had reviewed Rasier's ETA history and the record in this proceeding, and determined that these conditions will allow Rasier to thrive while "ensuring that the necessary public protections are in place."

At the Commission's November 13 public meeting announcing the parameters of this Order, a number of Commissioners noted concern with Rasier's conduct to date and voiced skepticism that it would comply with this Order. Rasier was put on warning that it was down to its last chance, that the Commission had tired of its evasiveness and

duplicity, and that it would need to be fully forthcoming and transparent going forward, starting with this Compliance Plan.

Despite those admonitions and warnings (and despite a degree of forgiveness for past violations that would be unprecedented in insurance regulation), Rasier's response has been to submit a Compliance Plan that is anything but. Is Plan is another example of its being a little too slick, semantic and evasive for the public's good, if not its own. Its approach is the worst of all combinations for an entity being regulated: Rasier both under-promises and under-delivers in its professed effort to satisfy the Commission's requisites, even after repeated warnings from the Commission of the need to do more.

Rasier's appeal is well-known, or at least well-marketed by Rasier. But at some point, enough is enough. Rasier's Compliance Plan leaves the Commission, its drivers, its passengers and the public in the dark on the Commission's insurance conditions. Unlike past filings, it isn't so much a hollow promise of compliance as a thinly-veiled attempt to evade those conditions. It should be rejected.

Respectfully submitted,



Samuel R. Marshall (PA ID No. 33619)

Insurance Federation of Pennsylvania, Inc.  
17<sup>th</sup> Floor  
1600 Market Street  
Philadelphia, PA 19103



Joseph T. Sucec, Esq.  
325 Peach Glen-Idaville Rd.  
Gardners, PA 17324

Mary D. Long  
Jeffrey A. Watson  
Administrative Law Judges  
Pennsylvania Public Utility Commission  
301 5<sup>th</sup> Avenue  
Suite 220  
Pittsburgh, PA 15222



---

Samuel R. Marshall  
Insurance Federation of Pennsylvania

Dated this 7th day of January, 2015 in Philadelphia, Pennsylvania