

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TE-190877
INNERPRIZIN LLC, D/B/A VIP PARTY BUS SPOKANE AND DRIVEN VIP	ORDER 01 GRANTING MITIGATION TO \$250
in the amount of \$500	

BACKGROUND

- 1 On October 30, 2019, the Washington Utilities and Transportation Commission (Commission) assessed a \$500 penalty (Penalty Assessment) against InnerPrizin LLC, d/b/a VIP Party Bus Spokane and Driven VIP, (InnerPrizin or Company), for one violation of Washington Administrative Code (WAC) 480-30-221, which adopts by reference Title 49 Code of Federal Regulations (C.F.R.) Part 382 – Controlled Substance and Alcohol Use and Testing.¹ The Penalty Assessment includes a \$500 penalty for one violation of 49 C.F.R. § 382.301(a) for using a driver before receiving a negative pre-employment controlled substance test result.
- 2 On October 25, 2019, InnerPrizin submitted to Commission staff (Staff) a corrective action safety plan, acknowledging the violations and providing supporting documentation of the corrections made to prevent violations from reoccurring.
- 3 On November 4, 2019, the Company filed with the Commission an application for mitigation of penalties (Application). In the Application, InnerPrizin admits the violations and asks that the penalty be reduced.
- 4 On November 22, 2019, Staff filed a response recommending the Commission assess a reduced penalty of \$250.

¹ WAC 480-30-221 adopts by reference sections of Title 49 C.F.R. Accordingly, Commission safety regulations with parallel federal rules are hereinafter referenced only by the applicable provision of 49 C.F.R.

DISCUSSION AND DECISION

- 5 Washington law requires charter and excursion carriers to comply with federal safety requirements and undergo routine safety inspections. In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.² Violations defined by federal law as “critical” meet this standard.³
- 6 Violations classified as “critical” are indicative of a breakdown in a carrier’s management controls. Critical violations are subject to penalties of \$100 per violation.⁴ Violations of Title 49 C.F.R. § 382 are subject to an additional \$500 for each motor vehicle driver employed by the carrier who is not in compliance with the motor vehicle driver testing requirements.⁵
- 7 The Commission will, however, consider several factors when entertaining a request for mitigation, including whether the company introduces new information that may not have been considered in setting the assessed penalty amount, or explains other circumstances that convince the Commission that a lesser penalty will be equally or more effective in ensuring the company’s compliance.⁶ The Commission also considers whether the violations were promptly corrected, a company’s history of compliance, and the likelihood the violation will recur.⁷
- 8 The Penalty Assessment assessed a \$500 penalty for one violation of 49 C.F.R. § 382.301(a) because the Company allowed an employee to operate a commercial vehicle prior to receiving a negative pre-employment controlled substance test result. In its response, the Company explained that it had not previously understood the rule, and claims that the penalty would cause financial hardship. The Company has implemented new procedures to prevent future occurrences of this violation.
- 9 Staff recommends the penalty be reduced by half because this is a first-time violation and the Company immediately corrected the violation and implemented new procedures to

² Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶12 (Jan. 7, 2013) (Enforcement Policy).

³ 49 C.F.R. § 385, Appendix B.

⁴ See RCW 81.04.405.

⁵ See RCW 81.04.580.

⁶ Enforcement Policy ¶19.

⁷ Enforcement Policy ¶15.

prevent recurrence. We agree with Staff's recommendation and assess a reduced penalty of \$250.

FINDINGS AND CONCLUSIONS

- 10 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, and practices of public service companies, including charter and excursion service carriers, and has jurisdiction over the parties and subject matter of this proceeding.
- 11 (2) InnerPrizin is a charter and excursion service carrier subject to Commission regulation.
- 12 (3) InnerPrizin violated 49 C.F.R. § 382.301(a) when it allowed a driver to operate a commercial vehicle before receiving a negative pre-employment controlled substance test result.
- 13 (4) InnerPrizin should be penalized \$250 for one violations of 49 C.F.R. § 382.301(a).

ORDER

THE COMMISSION ORDERS:

- 14 (1) InnerPrizin LLC, d/b/a VIP Party Bus Spokane and Driven VIP's request for mitigation of the \$500 penalty is GRANTED, in part, and the penalty is reduced to \$250.
- 15 (2) InnerPrizin LLC, d/b/a VIP Party Bus Spokane and Driven VIP must pay the penalty no later than December 24, 2019.
- 16 The Secretary has been delegated authority to enter this order on behalf of the Commissioners under WAC 480-07-904(1)(h).

DATED at Olympia, Washington, and effective December 10, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON
Executive Director and Secretary

NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. As authorized in WAC 480-07-904(3), you must file any request for Commission review of this order no later than 14 days after the date the decision is posted on the Commission's website.