

**UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT
DISPUTE RESOLUTION PANEL REVIEW AND DECISION**

In the Dispute Between

UIIA MC,
Appellant, and

UIIA EP,
Respondent

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Case Number: **20160422-1-XXXI-PD**

Date of Decision: 08/10/2016

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICES:

Inv.	Invoice #	Container #	Inv. Date	Facility	Outgated	Ingated	Date MC rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute	Notice of Intent Rec'd
1	UASCCQGPD18453	UACU8194424	10/21/14	PNCT/PNCT	8/29/14	9/9/14	10/2/2015	10/02/2015	10/6/2015	4/22/16
2	UASCCQGPD18867	UASU8518225	10/24/14	MAHER/MAHER	9/4/14	9/18/14	10/2/2015	10/2/2015	10/6/2015	4/22/16
3	UASCCQGPD18868	CRXU9110202	10/24/14	PNCT/PNCT	9/2/14	9/16/14	10/2/2015	10/2/2015	10/6/2015	4/22/16
4	UASCCQGPD18869	SEGU4832836	10/24/14	MAHER/MAHER	9/5/14	9/16/14	10/2/2015	10/2/2015	10/6/2015	4/22/16
5	UASCCQGPD18870	GLDU9980740	10/24/14	PNCT/PNCT	9/4/14	9/16/14	10/2/2015	10/2/2015	10/6/2015	4/22/16
6	UASCCQGPD18871	GLDU9984026	10/24/14	PNCT/MAHER	9/4/14	9/19/14	10/2/2015	10/2/2015	10/6/2015	4/22/16
7	UASCCQGPD19347	WEXI402227	10/29/14	MAHER/MAHER	9/10/14	9/26/14	10/2/2015	10/2/2015	10/6/2015	4/22/16
8	UASCCQGPD19713	UACU8493322	11/7/14	MAHER/MAHER	9/25/14	10/6/14	10/2/2015	10/2/2015	10/6/2015	4/22/16
9	UASCCQGPD19714	UACU8574131	11/7/14	MAHER/MAHER	9/25/14	10/3/14	10/2/2015	10/2/2015	10/6/2015	4/22/16
10	UASCCQGPD20760	UACU5517312	12/1/14	PNCT/PNCT	10/17/14	10/27/14	10/2/2015	10/2/2015	10/6/2015	4/22/16
11	UASCCQGPD20761	CAIU3571577	12/1/14	PNCT/MAHER	10/10/14	10/28/14	10/2/2015	10/2/2015	10/6/2015	4/22/16
12*	UASCCQGPD22654	UACU5727854	01/09/15	PNCT/PNCT	12/1/14	12/11/14	10/2/2015	10/2/2015	10/6/2015	4/22/16
13*	UASCCQGPD22655	FBLU9028249	01/09/15	PNCT/PNCT	11/20/14	12/12/14	10/2/2015	10/2/2015	10/6/2015	4/22/16
14	UASCCQGPD23953	GESU4599822	02/03/15	PNCT/PNCT	12/19/14	1/5/15	10/2/2015	10/2/2015	10/6/2015	4/22/16
15	UASCCQGPD23954	TGHU9080323	02/03/15	PNCT/PNCT	12/19/14	1/2/15	10/2/2015	10/2/2015	10/6/2015	4/22/16

16	UASCCQGPD24292	UACU8530684	2/9/15	PNCT/GLOBAL	12/26/14	1/8/15	10/2/2015	10/2/2015	10/6/2015	4/22/16
17	UASCCQGPD24930	UACU5823797	2/26/15	PNCT/PNCT	1/16/15	1/29/15	10/2/2015	10/2/2015	10/6/2015	4/22/16
18	UASCCQGPD24931	UACU5004346	2/26/15	PNCT/PNCT	12/18/14	1/29/15	10/2/2015	10/2/2015	10/6/2015	4/22/16
19*	UASCCQGPD26250	UACU5924004	3/27/15	PNCT/PNCT	1/20/15	2/17/15	10/2/2015	10/2/2015	10/6/2015	4/22/16
20*	UASCCQGPD26353	UACU3832953	3/30/15	PNCT/PNCT	2/10/15	2/26/15	10/2/2015	10/2/2015	10/6/2015	4/22/16
21*	UASCCQGPD27091	GATU8457034	4/10/15	PNCT/GLOBAL	2/10/15	2/26/15	10/2/2015	10/2/2015	10/6/2015	4/22/16
22*	UASCCQGPD28232	UACU384210	5/5/15	PNCT/GLOBAL	3/9/15	3/25/15	10/2/2015	10/2/2015	10/6/2015	4/22/16
23	UASCCQGPD32362	UACU5975064	7/14/15	PNCT/APM Newark	5/18/15	6/3/15	10/2/2015	10/2/2015	10/6/2015	4/22/16

* The Equipment Provider provided proof on sending these invoices to the Motor Carrier

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier's basis of dispute is Section E.6.c. of the UIIA, which states that the "Provider shall invoice Motor Carrier for Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges within sixty (60) days from the date on which Equipment was returned to Provider by Motor Carrier. If Motor Carrier is not invoiced within the established timeframe, the right of the Provider to recover such charges will be lost." The Motor Carrier stated that the Equipment Provider did not submit the invoices in question for payment within the sixty (60) day timeframe as required. The Motor Carrier indicated that they did not receive the above 23 invoices until October 2, 2015 when a statement was received showing the additional charges and the Motor Carrier requested that copies of the invoices be provided. Consequently, the Motor Carrier believes they are not liable for payment of these invoices since the Equipment Provider did not comply with Section E.6.c.

EQUIPMENT PROVIDER'S RESPONSE TO MOTOR CARRIER'S DISPUTE:

The Equipment Provider submitted comments and backup documentation that indicated they believe the subject invoices are valid and due. The Equipment Provider believes that the Motor Carrier failed to initially dispute the invoices within the 30 day period set forth in Section H.1. and also did not submit the case for arbitration within the 15 day period from the Equipment Provider's response as established in this same provision. The Equipment Provider believes it has provided substantial proof of confirmed e-mail communications to the Motor Carrier that disproves the Motor Carrier's argument that the invoices were never received or that some were received and others were not. The EP had advised earlier that during a system enhancement it encountered an error that caused e-mails being sent from the Equipment Provider to the Motor Carrier to show the To/From e-mail addresses as the Motor Carrier's e-mail address. The Equipment Provider acknowledged that this may have caused an issue with some mail servers identifying the e-mail as spam, however the Equipment Provider also indicated that they have no control over the recipient's e-mail settings. The Equipment Provider stated that this technical matter with how the e-mail address was displayed in the communications was addressed with its IT department and that statements of outstanding invoices were sent out to all parties. Consequently, the EP believes the invoices were issued within the established timeframe and are the responsibility of the Motor Carrier.

DISCUSSION:

After careful review of all documents and the evidence submitted by the parties, the panel finds in favor of the Equipment Provider for Invoice Nos. UASCCQGP22654, UASCCQGP22655, UASCCQGP22650, UASCCQGP26353, UASCCQGP27091, and UASCCQGP28232 in the amount of \$00.00, and in favor of the Motor Carrier for the balance of the invoices. The Motor Carrier panel member stated that the Equipment Provider provided evidence that 6 out of the 23 invoices were issued to the Motor Carrier within the established timeframe. As to the balance of the invoices, the evidence provided indicates that they were not invoiced within the 60 day timeframe under Section E.6.c. of the UIIA. The Motor Carrier panel member noted that the statement provided from Equipment Provider on June 30, 2015, that failed to show outstanding invoices, is sufficient evidence that the Equipment Provider did not invoice the motor carrier timely, nor did the Equipment Provider provide proof that 17 out of 23 invoices were set within the proper timeframe to the e-mail address in the UIIA subscriber record at the time of the billing.

The Ocean Carrier panel member agreed also finding in favor of the Equipment Provider for the invoices referenced above in the amount of \$00.00, and in favor of the Motor Carrier for the balance of the invoices. The Ocean Carrier panel member stated that the Equipment Provider failed to provide sufficient evidence to prove that 17 out of 23 invoices were properly sent in accordance with Section E.6.c.

The panel did not find any evidence to prove that the Motor Carrier did not submit the claim for arbitration within the 15 day timeframe established in Section H.1.

DECISION:

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (February 8, 2016) to make its decision:

- E. Equipment Use
 - 6. Free Days, Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage Charges
 - b. Motor Carrier shall be responsible for Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges set forth in the Addenda. **[Revised 01/17/12]**
 - c. Provider shall invoice Motor Carrier for Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges within sixty (60) days from the date on which Equipment was returned to Provider by Motor Carrier. If Motor Carrier is not invoiced within the established timeframe, the right of the Provider to recover such charges will be lost. **[Revised 01/17/12]**

DECISION: The panel unanimously finds in favor of the Equipment Provider in the amount of \$00.00 and in favor of the Motor Carrier for the balance of the invoices totaling \$00.00. Invoices found in favor of the Equipment Provider are noted below:

Inv. #	Invoice	Inv. Date	Amount
12	UASCCQGP22654	01/09/15	00
13	UASCCQGP22655	01/09/15	00
19	UASCCQGP26250	3/27/15	00
20	UASCCQGP26353	3/30/15	00
21	UASCCQGP27091	4/10/15	00
22	UASCCQGP28232	5/5/15	00
		TOTAL	00

CASE REVIEWED AND DECIDED BY:

DAVE MANNING
Motor Carrier Member

AL SMERALDO
Ocean Carrier Member

In the Dispute Between

UIIA MC,
Appellant, and

UIIA EP,
Respondent

Case Number: **20160630-3-XXXI-PD**

Date of Decision: 09/30/2016

Invoice	Invoice #	Container #	Inv. Date	Facility	Outgated	Ingated	Date MC rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute	Notice of Intent Rec'd
1	ATLI035576	TGHU9630250	05/31/16	SCSPA/SCSPA	2/22/16	5/11/16	5/31/16	6/29/16	6/29/16	6/30/16

The Motor Carrier's basis of dispute is Exhibit B of the UIIA. The Motor Carrier stated that the container was on a chassis that lost the license plate holder and license while in transit. On February 26, 2016, the equipment owner made the determination that the holder was lost due to normal wear and tear and not damage, and this finding was agreed by the repair company Trailco. The Motor Carrier notified the Equipment Provider on March 1, 2016, and asked to stop the per diem charges until the chassis was legal to run. The repairs were made and the replacement license was installed May 10, 2016, and the unit was returned to the port on May 11, 2016. Therefore, the Motor Carrier feels that because the container was unable to be moved until the chassis was legal and roadworthy, they should not be held responsible for the per diem charges.

The Equipment Provider did not provide any comments regarding this binding arbitration claim. However, they did respond to the Motor Carrier's first initial dispute stating "The chassis is not owned by EP, so EP has no control on chassis quality or performance. The charges are the responsibility of the trucker who outgated the container."

After careful review of all documents and the evidence submitted by the parties, the panel finds in favor of the Equipment Provider. Both the Ocean Carrier panel member and the Motor Carrier panel member agreed that this case was a difficult case as it raises the issue of when the container and

chassis are interchanged by two separate Equipment Providers. In this specific case the container was interchanged under the Equipment Provider's UIIA addendum, however the chassis was provided by TRAC under a separate commercial agreement with the Motor Carrier for the use of the chassis outside of the UIIA. Consequently, any repair item related to the chassis would be between the Motor Carrier and the chassis Equipment Provider and handled under the commercial agreement between these two parties outside of the UIIA. The UIIA Equipment Provider for the container has no responsibility for the chassis and therefore has no responsibility under the terms of the UIIA to extend the free time.

DECISION:

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (February 8, 2016) to make its decision:

Section E.6. Free Days, Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage Charges [Last Revised 1/17/12]

- a. Interchange of Equipment is on a compensation basis. Provider may permit some period of uncompensated use and thereafter impose Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges, as set forth in its Addendum.
- b. Motor Carrier shall be responsible for Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges set forth in the Addenda.

Exhibit B to UIIA, Equipment Owners Responsibility (added to UIIA on 07/25/07, Last Revised 4/20/09)

Repairs made to any item listed in Exhibit B that were a result of damage and not normal Wear and Tear, are the responsibility of the Motor Carrier.

Application of vehicle license plates.

DECISION: The panel unanimously finds in favor of the Equipment Provider.

CASE REVIEWED AND DECIDED BY:

DAVID DALY
Ocean Carrier Member

ROBERT A. CURRY
Motor Carrier Member

CASE – 20160719-1-XXXU-PD Moving Party: EP /Responding Party: MC

Below is a summary of the invoices being disputed under this arbitration claim:

Invoice	Invoice #	Container #	Inv. Date	Facility	Outgated	Ingated	Date MC rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute	Notice of Intent Rec'd
1	STB2301927	KKFU7839514	8/24/2015	Louisville, KY	7/8/2015	8/14/15	-----	-----	-----	7/19/2016
2	STB2375114	TCNU6017407	09/10/2015	Louisville, KY	08/06/2015	9/02/15	-----	-----	-----	7/19/2016

EQUIPMENT PROVIDER'S BASIS OF DISPUTE:

The Equipment Provider submitted this claim stating that all charges were billed as per UIIA policy, having issued invoices within the appropriate 60 day timeframe and delivered to the UIIA email contact on file. The Equipment Provider has submitted this claim under the binding arbitration process to hold the Motor Carrier accountable for the above-referenced past due invoices.

MOTOR CARRIER'S RESPONSE TO THE CLAIM:

Motor Carrier responded to the claim stating that the chassis associated with the claim were wrong. The Motor Carrier was made aware that the per diem charges under the claim were related to the container; however, the Motor Carrier did not wish to make any further comment regarding the charges under the arbitration claim.

DISCUSSION:

After careful review of all documents and the evidence submitted by the parties, the panel finds in favor of the Equipment Provider. The Motor Carrier panel member noted that the Motor Carrier failed to provide any documentation showing why the invoices should not have been billed to them. The Ocean Carrier panel member agreed stating that the evidence provided in this case clearly illustrates that the Equipment Provider invoiced the charges within the 60 day time frame pursuant to Section E.6.c of the UIIA and, further, that the Motor Carrier made no attempt and failed to dispute the invoices within the prescribed timeframe pursuant to Section H.3.

DECISION:**UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:**

The panel relied upon the following provisions from the UIIA (February 8, 2016) to make its decision:

- E. Equipment Use
- 6. Free Days, Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage Charges

- b. Motor Carrier shall be responsible for Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges set forth in the Addenda. **[Revised 01/17/12]**
- c. Provider shall invoice Motor Carrier for Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges within sixty (60) days from the date on which Equipment was returned to Provider by Motor Carrier. If Motor Carrier is not invoiced within the established timeframe, the right of the Provider to recover such charges will be lost. **[Revised 01/17/12]**

H. Default Dispute Resolution and Binding Arbitration Process

Should Invoiced Party fail to dispute an invoice relating to Per Diem or maintenance and repair charges within 30 days after receipt of the invoice, the Invoiced Party will lose any further right to dispute the invoice under the Invoicing Party's initial dispute process, or in absence of a dispute resolution process in the Provider's Addendum, the default dispute resolution process in Section H.1. Further, the Invoiced Party, upon failing to dispute the invoice or seek arbitration within the prescribed timeframe, immediately will be responsible for payment thereof to the Invoicing Party and will lose its right to pursue binding arbitration under Exhibit D of the Agreement or assert any other defense against the invoice.

DECISION: The panel unanimously finds in favor of the Equipment Provider.

CASE REVIEWED AND DECIDED BY:

KEVIN LHOTAK
Motor Carrier Member

JIM MICHALSKI
Ocean Carrier Member

**UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT
DISPUTE RESOLUTION PANEL REVIEW AND DECISION**

In the Dispute Between)

UIIA EP,)
Appellant, and)

UIIA MC,)
Respondent)

Case Number: **20161213-1-XXXS-PD**

Date of Decision: 04/03/2017

THE EQUIPMENT PROVIDER DISPUTES THE FOLLOWING INVOICES:

Invoice	Invoice #	Inv. Date	Date MC rec'd inv.	Notice of Intent Rec'd
1	BCS3426877	9/21/16	9/21/16	12/13/16
2	BCS2778489	1/20/16	1/20/16	12/13/16
3	BCS2856017	2/17/16	2/17/16	12/13/16
4	BCS3450251	9/28/16	9/28/16	12/13/16
5	BCS2963227	3/23/16	3/23/16	12/13/16
6	BCS3470384	10/6/16	10/6/16	12/13/16
7	BCS2881636	2/24/16	2/24/16	12/13/16
8	BCS3162985	6/8/16	6/8/16	12/13/16
9	BCS3353788	8/24/16	8/24/16	12/13/16
10	BCS3095518	5/11/16	5/11/16	12/13/16
11	BCS2794999	1/27/16	1/27/16	12/13/16
12	BCS3392713	9/7/16	9/7/16	12/13/16
13	BCS3034878	4/20/16	4/20/16	12/13/16
14	BCS2987353	4/1/16	4/1/16	12/13/16
15	BCS2945176	3/16/16	3/16/16	12/13/16
16	BCS3223418	7/6/16	7/6/16	12/13/16
17	BCS3276807	7/27/16	7/27/16	12/13/16

Invoice	Invoice #	Inv. Date	Date MC rec'd inv.	Notice of Intent Rec'd
22	BCS2903719	3/2/16	3/2/16	12/13/16
23	BCS3069662	5/4/16	5/4/16	12/13/16
24	BCS3302530	8/3/16	8/3/16	12/13/16
25	BCS3146878	6/1/16	6/1/16	12/13/16
26	BCS2910237	3/4/16	3/4/16	12/13/16
27	BCS3374092	8/31/16	8/31/16	12/13/16
28	BCS3214998	6/29/16	6/29/16	12/13/16
29	BCS3114878	5/18/16	5/18/16	12/13/16
30	BCS3224467	7/6/16	7/6/16	12/13/16
31	BCS3414360	9/14/16	9/14/16	12/13/16
32	BCS2978525	3/30/16	3/30/16	12/13/16
33	BCS3276697	7/27/16	7/27/16	12/13/16
34	BCS2925029	3/9/16	3/9/16	12/13/16
35	BCS3183065	6/15/16	6/15/16	12/13/16
36	BCS3003031	4/6/16	4/6/16	12/13/16
37	BCS3129206	5/25/16	5/25/16	12/13/16
38	BCS3344547	8/17/16	8/17/16	12/13/16

18	BCS3053291	4/27/16	4/27/16	12/13/16
19	BCS3242602	7/13/16	7/13/16	12/13/16
20	BCS3197348	6/22/16	6/22/16	12/13/16
21	BCS2826787	2/3/16	2/3/16	12/13/16

39	BCS3254669	7/20/16	7/20/16	12/13/16
40	BCS3017322	4/13/16	4/13/16	12/13/16
41	BCS2840813	2/10/16	2/10/16	12/13/16
42	BCS3329784	8/10/16	8/10/16	12/13/16
42 Invoices with a total amount of:				

EQUIPMENT PROVIDER'S BASIS OF DISPUTE:

The Equipment Provider's basis of dispute is Section E.6.b. of the UIIA. The Equipment Provider indicated that the Motor Carrier was invoiced for chassis rental charges covering the dates of January 20, 2016 through October 6, 2016 in the amount of \$00.00. The Equipment Provider noted that all billings were issued in accordance with the terms of the UIIA, with all invoices issued within the appropriate 60 day timeframe and delivered to the e-mail address of the UIIA contact on file at the time of the billing. The Equipment Provider believes that pursuant to the terms set forth in Section E.6.b. of the UIIA, the Motor Carrier is responsible for these charges. Consequently, the Equipment Provider is requesting binding arbitration to hold the Motor Carrier accountable for the referenced outstanding past due chassis rental fees.

MOTOR CARRIER'S RESPONSE TO MOTOR CARRIER'S DISPUTE:

The Motor Carrier provided no response to the claim.

DISCUSSION:

After careful review of all documents and the evidence submitted by the parties, the panel finds in favor of the Equipment Provider. The Motor Carrier panel member stated that based upon Section E.6.b. charges are owed by the Motor Carrier and, further, finds that charges were billed timely based upon Section E.6.c. of the UIIA. The Ocean Carrier panel member agreed stating that the Equipment Provider sent a valid invoice and has not been paid for the services provided. In addition, the Motor Carrier did not respond to the arbitration case.

DECISION:

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (June 13, 2016) to make its decision:

E. Equipment Use

6. Free Days, Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage Charges

- b. Motor Carrier shall be responsible for Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges set forth in the Addenda. **[Revised 01/17/12]**
- c. Provider shall invoice Motor Carrier for Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges within sixty (60) days from the date on which Equipment was returned to Provider by Motor Carrier. If Motor Carrier is not invoiced within the established timeframe, the right of the Provider to recover such charges will be lost. **[Revised 01/17/12]**

DECISION: The panel unanimously finds in favor of the Equipment Provider.

CASE REVIEWED AND DECIDED BY:

DAVE MANNING
Motor Carrier Member

AL SMERALDO
Ocean Carrier Member

In the Dispute Between

Case Number: **20190122-11-XXXN-PD**

Date of Decision: 05/24/19

Invoice	Invoice #	Container #	Inv. Date	Facility	Outgated	Ingated	Date MC rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute	Notice of Intent Rec'd
1	DOEF1710019650	Same	1/7/19	Same	Same	Same	1/7/19	1/15/19	1/16/19	1/22/19

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Provider stated that the Motor Carrier did not comply with their addendum, and the first chance they had to correct the invoice was when it was disputed. Therefore, the Equipment Provider feels that the invoice is valid and should stand.

DECISION:

After careful review of all documents and the evidence submitted by the parties, the panel unanimously finds in favor of the Equipment Provider. Both the Motor Carrier panel member and the Ocean Carrier panel member noted:

- The Motor Carrier disputed the original invoice issued in the amount of \$00.00 within the timeframe requirements as outlined in the Agreement.
- The Equipment Provider corrected the invoice upon receipt of the Motor Carrier's communication confirming the actual return date of the equipment. Consequently, the Motor Carrier is responsible for the corrected invoice in the amount of \$00.00.

The Motor Carrier panel member noted that his decision was based solely on the terms of the Section E.6. of the UIIA in that the corrected per diem billed to the Motor Carrier was monies due to the Equipment Provider and not on the Equipment Provider's claim of failure of the Motor Carrier to comply with the terms of its addendum. The Ocean Carrier panel member indicated that based on the evidence and facts presented in the case, he concurred that the Motor Carrier was responsible for the corrected per diem invoice.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (October 1, 2018) to make its decision:

E. Equipment Use

6. Free Days, Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage Charges

- b. Motor Carrier shall be responsible for Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges set forth in the Addenda.
- c. Provider shall invoice Motor Carrier for Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges within sixty (60) days from the date on which Equipment was returned to Provider by Motor Carrier. If Motor Carrier is not invoiced within the established timeframe, the right of the Provider to recover such charges will be lost. **[Revised 01/17/12]**

Should Provider invoice the incorrect party, Provider may invoice the interchanging Motor Carrier within thirty (30) days from the date the incorrect party disputes the charges with Provider or within the original sixty (60) day deadline, whichever is later. The preceding sentence only applies as long as the Provider issues such invoice to the interchanging Motor Carrier within ninety (90) days from the date on which Equipment was returned. **[Added 01/01/17]**

Equipment Providers Addendum: Services Co. LLC - Addendum to the Uniform Intermodal Interchange and Facilities Access Agreement

**7. USE CHARGES AND FREE TIME:
TABLE OF CHARGES**

Type of Equipment	Charges Per Calendar Day after Expiration of Free Time
Dry van Container with or without chassis	Day 1- Day 5 - \$00.00 Day 6 and above - \$00.00
High Cube Container with or without chassis	Day 1- Day 5 - \$00.00 Day 6 and above - \$00.00
Special Equipment (viz)	
Hanger Containers with or without chassis	\$00.00
Tank Containers with or without chassis	\$00.00
Open Top Containers with or without chassis	\$00.00
Flat Rack with or without chassis	\$00.00
Reefer Container with or without chassis	\$00.00
Bare Chassis (See Note 2 Below)	\$00.00

Note 2: If container or chassis is not returned with the free time provided herein, Motor Carrier must give immediate written notification, via e-mail to **e-mail** or by fax (000)000.0000.

DECISION: The panel unanimously finds in favor of the Equipment Provider.

CASE REVIEWED AND DECIDED BY:

KEVIN LHOTAK
Motor Carrier Member

JIM MICHALSKI
Ocean Carrier Member

**10 UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT
DISPUTE RESOLUTION PANEL REVIEW AND DECISION**

In the Dispute Between

UIIA MC,

Appellant, and

UIIA EP,

Respondent

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Case Number: **20190509-1-IXXX-PD**

Date of Decision: 10/30/2019

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICES:

Invoices are numbered to correlate with case file	Invoice #	Inv. Date	Amount	Outgated	Ingated	Free Days	Date MC rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute	Notice of Intent Rec'd
1	UST000052	6/25/2018	140	5/15/18	5/21/18	5	6/25/2018	7/3/18	No response within the TF	5/9/19
2	UST000057	6/25/2018	140	5/15/18	5/21/18	5	6/25/2018	7/3/18	No response within the TF	
3	UST000060	6/25/2018	140	5/15/18	5/21/18	5	6/25/2018	7/3/18	No response within the TF	
4	UST000130	6/25/2018	140	5/15/18	5/21/18	5	6/25/2018	7/3/18	No response within the TF	
5	UST000241	6/25/2018	190	5/9/18	5/15/18	5	6/25/2018	7/3/18	No response within the TF	
6	UST000689	6/25/2018	140	5/4/18	5/9/18	4	6/25/2018	7/3/18	No response within the TF	
7	UST001361	6/26/2018	140	5/17/18	5/23/18	5	6/26/2018	7/3/18	No response within the TF	
8	UST001864	6/26/2018	140	6/15/18	6/21/18	5	6/26/2018	7/3/18	No response within the TF	
9	UST002199	6/26/2018	190	6/5/18	6/11/18	5	6/26/2018	7/3/18	No response within the TF	
10	UST011536	7/3/2018	190	6/21/18	6/26/18	4	7/3/2018	7/18/18	No response within the TF	
48/61	UST000815	6/25/2018	140	5/3/18	5/8/18	4	6/25/2018	7/3/18	No response within the TF	
50	UST015524	7/16/2018	140	7/3/18	7/9/18	5	7/16/2018	8/18/18	No response within the TF	
57	UST024084	7/30/2018	140	7/17/18	7/23/18	5	7/30/2018	8/16/18	No response within the TF	
12	UST034467	8/27/2018	280	8/14/18	8/20/18	5	8/27/2018	8/28/18	No response within the TF	
13	UST043059	9/11/2018	190	8/28/18	9/4/18	5	9/11/2018	9/25/18	No response within the TF	
14	UST043215	9/11/2018	140	8/31/18	9/5/18	4	9/11/2018	9/25/18	No response within the TF	
15	UST043217	9/11/2018	140	8/30/18	9/5/18	5	9/11/2018	9/25/18	No response within the TF	
21	UST046381	9/18/2018	190	9/4/18	9/10/18	5	9/18/2018	9/25/18	No response within the TF	

22	UST047190	9/18/2018	140	9/6/18	9/11/18	4	9/18/2018	9/25/18	No response within the TF	
25	UST065624	10/25/2018	140	10/10/18	10/16/18	5	10/25/2018	10/29/18	No response within the TF	
52	UST072308	11/9/2018	140	10/17/18	10/23/18	5	11/9/2018	11/14/18	No response within the TF	
47 _(credit)	UST000116	6/25/18	420	Full amt. was cancelled by EP but MC paid 140.00					No response within the TF	
49 _(credit)	UST000819	6/25/18	700	Full amt. was cancelled by EP but MC paid 420.00					No response within the TF	

Total disputed: 3,330.00

Total credit/reimbursement: 1,120.00

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier's basis of dispute is Section E.6 of the UIIA and Section 1. Free Time, A&B of the Equipment Provider's addendum to the UIIA. The Motor Carrier disputed the invoices with the Equipment Provider as they believe the Equipment Provider miscalculated destination detention free time. The Motor Carrier stated that their contract as a trucker under the UIIA is with the Equipment Provider and that the Service Contract is between the Equipment Provider and the Shipper, not the trucker.

EQUIPMENT PROVIDER'S RESPONSE TO MOTOR CARRIER'S DISPUTE:

The Equipment Provider responded to the claim stating under their addendum to the UIIA ("EP's Addendum"), EP established free time for detention in the United States as the day of initial interchange-plus four working days for regular equipment and the day of initial interchange-plus three working days for operating reefer/tank and other specialized containers not covered elsewhere. Saturdays, Sundays, and Holidays are excluded from the free time calculation. The Equipment Provider also stated that EP and its customers may deviate from the free time for detention established in the EP's Addendum by including an exception in the service contracts. When an exception to detention free time is agreed to and included in a service contract, that exception controls over the detention free time included in the EP's Addendum. Therefore, the Equipment Provider feels that the Motor Carriers are bound by any exception to detention free time included in a service contract as Motor Carriers are agents for their customers. Accordingly, the Motor Carrier is bound by any exceptions to detention free time contained in the service contracts that apply to the shipments they are moving. In the event there are questions or confusion about the applicable detention free time for a particular shipment, it is the responsibility of the customers and the Motor Carriers to communicate with each other regarding what detention free time is available. Therefore, the Equipment Provider feels that the invoice is valid and should stand.

DECISION:

After careful review of all documents and the evidence submitted by the parties, the panel unanimously finds in favor of the Equipment Provider. Based upon the following facts, the Ocean Carrier panel member stated that the Motor Carrier failed to follow the dispute process in place at the time:

- The dates of interchange related to the invoices under dispute range from 5/4/2018 – 10/23/18. There were two versions of the EP addendum in effect covering this timeframe. The dispute e-mail address contained in the EP's addendum during this timeframe was as follows:
- EP's Addendum – Version effective March 1, 2018 – dispute e-mail was: na.iop.productadmin.truck@one-line.com

- EP's Addendum – Version effective October 7, 2018 – dispute e-mail was: na.csvc.perdiem@one-line.com
- The copy of the EP's addendum that the Motor Carrier included as supporting documentation in the binding arbitration case was not effective until September 25, 2019, which is after the dates of interchange and shows na.ofs.recon@one-line.com. The Motor Carrier did not use the address shown in the EP's addendum in effect at the time of the interchange period. Instead the Motor Carrier used the email address NA.OFS.LINER.AR@one-line.com to dispute the charges and this was the e-mail address that was shown on the EP's invoices for inquiries.

The Motor Carrier panel member agreed stating that the Motor Carrier was not in compliance with the Equipment Provider's dispute process. Because the proper initial dispute process was not followed by the Motor Carrier as set forth in the Equipment's addendum, the panel agreed that the specific calculation of free time used related to the disputed charges did not come into play when rendering this decision.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (October 1, 2018) to make its decision:

E. Equipment Use

6. Free Days, Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage Charges
 - a. Interchange of Equipment is on a compensation basis. Provider may permit some period of uncompensated use and thereafter impose Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges, as set forth in its Addendum. **[Revised 01/17/12]**
 - d. Notwithstanding anything to the contrary in this Agreement, when a Motor Carrier disputes a Per Diem invoice on the basis that the amount due is different than the amount that would otherwise be due under a separate third party agreement, the Motor Carrier must provide documentation supporting this claim, and the Provider shall not suspend the Motor Carrier's interchange privileges until the discrepancy has been resolved by the Provider. **[Added 03/01/18]**
 - f. Motor Carrier shall respond in writing to Provider's invoices within thirty (30) days, documenting with appropriate evidence its disagreement with any of Provider's invoices it believes to be incorrect.
 - g. Motor Carrier will participate in good faith in Provider's established method of dispute resolution, as set forth in its Addendum.

H. Default Dispute Resolution Process/Binding Arbitration Process

1. In absence of a dispute resolution process contained in the Provider's Addendum that establishes timeframes for signatories to the Agreement to dispute invoices and respond to the dispute with respect to Per Diem, maintenance and repair or Equipment use/rental charges, the following default dispute resolution process will apply: **[Revised 05/01/17]**.

Invoiced Party shall advise Invoicing Party in writing of any disputed items on invoices within 30 days of the receipt of such invoice(s), documenting with appropriate evidence, its disagreement with any of Invoicing Party's bills it believes to be incorrect. Invoicing Party will respond in writing to such disputed items within 30 days of receipt of Invoiced Party's notice with its decision to accept or deny the Invoiced Party's dispute. The Invoiced Party will have 15 days from the date of the Invoicing Party's response to either pay the claim(s) or seek arbitration. Such disputes do not constitute valid grounds for withholding or delaying payments of undisputed charges as required by the Terms of this Agreement.

DECISION: The panel unanimously finds in favor of the Equipment Provider.

CASE REVIEWED AND DECIDED BY:

ROBERT CANNIZZARO
Ocean Carrier Member

BEN BANKS
Motor Carrier Member

**UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT
DISPUTE RESOLUTION PANEL REVIEW AND DECISION**

In the Dispute Between

UIIA MC,

Appellant, and

UIIA EP,

Respondent

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Case Number: **20200217-6-XXXG-PD**

Date of Decision: 05/19/2020

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICE:

Invoice	Invoice #	Container #	Inv. Date	Facility	Outgated	Ingated	Date MC rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute	Notice of Intent Rec'd
1	2118143444	HLXU8006732	2/10/20	Ports Amer. New Orleans /Ports Amer. New Orleans	11/25/19	1/17/20	2/10/20	2/10/20	2/11/20	2/17/20

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier's basis of dispute is Section E.6 of the UIIA. The Motor Carrier disputed the invoice stating that the unit was out for an extended period of time due to issues with the TRAC chassis that the unit was pulled out on. The chassis had significant maintenance issues that were unable to be repaired on the roadside. The Motor Carrier stated that the customer had to unload this unit so that it could be towed to a facility for all of the repairs to be made. Once the repairs were made, TRAC advised the Motor Carrier that the unit could not be used to pull a loaded container until it was brought back to the port for the repairs to be inspected. The Motor Carrier feels that it is for this reason that the unit was out for such a long period of time and was returned empty. The Motor Carrier believes that they should not be held responsible for the per diem invoice due to the TRAC chassis issues.

EQUIPMENT PROVIDER'S RESPONSE TO MOTOR CARRIER'S DISPUTE:

The Equipment Provider responded to the claim stating that the per diem could not be waived as it was not due to the Equipment Provider's error. The Equipment Provider indicated that the shipment was a merchant haulage move, and as such, the Motor Carrier would have to contact the chassis provider if the detention was incurred due to a damaged chassis. Therefore, the Equipment Provider feels that the invoice is valid and should stand.

DECISION:

After careful review of all documents and the evidence submitted by the parties, the panel unanimously finds in favor of the Equipment Provider. The Ocean Carrier panel member noted that pursuant to Section D.3.b of the UIIA Motor Carriers will conduct a pretrip inspection prior to departing with the interchanged equipment that will include those items set forth in Exhibit A to the Agreement. The following list sets forth those items contained in Exhibit A to the UIIA, which the Motor Carrier has responsibility for visually or audibly checking prior to use of the Equipment:

8. Tires (Check that the following conditions are not present.)
 - a. Tire is flat, underinflated or has noticeable (e.g., can be heard or felt) leak.
 - b. Any tire with excessive wear (2/32nds or less thread depth), visually observable bump, or knot apparently related to tread or sidewall separation.
 - c. Tire is mounted or inflated so that it comes in contact with any part of the vehicle. (This includes any tire contacting its mate in a dual set.)
 - d. Seventy-five percent or more of the tread width is loose or missing in excess of 12 inches (30cm) in circumference.

The evidence presented in the case confirmed that four (4) tires needed to be replaced. It is the Motor Carriers responsibility to visually check the condition of the equipment prior to delivery. The delay in returning the container was of no fault of the Equipment Provider.

Based on the evidence presented in the case, the Motor Carrier panel member agreed with the finding in favor of the Equipment Provider. The Motor Carrier panel member noted that it did not believe this was a case of misuse of the chassis by the Motor Carrier, but rather the repair vendor taking an extended amount of time to repair the chassis. However, the Motor Carrier had the ability on Merchant Haulage to select or utilize their own chassis for the movement and was not required to use a specific chassis provider's equipment. Unfortunately, the chassis provider selected was not a signatory to the UIIA, but the Equipment Provider of the container is a UIIA participant and their per diem charges are spelled out within their UIIA addendum. Consequently, the billing was done in accordance with the terms set forth in the Equipment Provider's UIIA addendum so therefore the Motor Carrier would be responsible for the charges billed.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (July 1, 2019) to make its decision:

D. Equipment Interchange

3. Equipment Condition
 - b. Motor Carriers will conduct a pre-trip inspection prior to departing with interchanged Equipment that will include those items set forth in Exhibit A to this Agreement. **[Item Re-numbered 10/01/18]**

E. Equipment Use

6. Free Days, Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage Charges

- a. Interchange of Equipment is on a compensation basis. Provider may permit some period of uncompensated use and thereafter impose Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges, as set forth in its Addendum. **[Revised 01/17/12]**
- b. Motor Carrier shall be responsible for Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges set forth in the Addenda. **[Revised 01/17/12]**
- c. Provider shall invoice Motor Carrier for Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges within sixty (60) days from the date on which Equipment was returned to Provider by Motor Carrier. If Motor Carrier is not invoiced within the established timeframe, the right of the Provider to recover such charges will be lost. **[Revised 01/17/12]**

Should Provider invoice the incorrect party, Provider may invoice the interchanging Motor Carrier within thirty (30) days from the date the incorrect party disputes the charges with Provider or within the original sixty (60) day deadline, whichever is later. The preceding sentence only applies as long as the Provider issues such invoice to the interchanging Motor Carrier within ninety (90) days from the date on which Equipment was returned. **[Added 01/01/17]**

Exhibit A to UIIA Motor Carrier Pre-Trip Inspection As referenced in Sections D.3.b. and F.4.b. **(Added to UIIA 1/17/08, Last Revised 05/22/19)**

8. Tires (Check that the following conditions are not present.)
- a. Tire is flat, underinflated or has noticeable (e.g., can be heard or felt) leak.
 - b. Any tire with excessive wear (2/32nds or less thread depth), visually observable bump, or knot apparently related to tread or sidewall separation.
 - c. Tire is mounted or inflated so that it comes in contact with any part of the vehicle. (This includes any tire contacting its mate in a dual set.)
 - d. Seventy-five percent or more of the tread width is loose or missing in excess of 12 inches (30cm) in circumference.

Equipment Providers Addendum to the Uniform Intermodal Interchange and Facilities Access Agreement

4. USE CHARGES; SPECIAL APPLICATIONS

- 4.1** Motor Carrier shall pay Provider Use Charges on the Equipment as set forth in Schedule "A", which is annexed hereto and made a part hereof, for each day elapsed from the date of Interchange of each unit of Equipment until the date of return of each unit of Equipment unless otherwise expressly agreed to by Provider in writing.

4.2 When Equipment is damaged and reported to the Provider pursuant to paragraph 2 of this Agreement, Use Charges will cease from the date of notification requesting authorization to repair damages exceeding \$00.00 until repairs are authorized or instructions given as to disposition by Provider.

DECISION: The panel unanimously finds in favor of the Equipment Provider.

CASE REVIEWED AND DECIDED BY:

JAMES MICHALSKI
Ocean Carrier Member

KEVIN LHOTAK
Motor Carrier Member

**UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT
DISPUTE RESOLUTION PANEL REVIEW AND DECISION**

In the Dispute Between

UIIA MC,

Appellant, and

UIIA EP,

Respondent

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Case Number: **20200324-1-XXXF-PD**

Date of Decision: 9/29/2020

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICE:

Invoice	Invoice #	Container #	Inv. Date	Facility	Outgated	Ingated	Date MC rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute	Notice of Intent Rec'd
1	100000396660P	FSCU8640066	02/20/20	GPA/GPA	7/17/19	1/31/20	3/3/20	3/3/20	3/10/20	3/24/20

MOTOR CARRIER'S BASIS OF DISPUTE

The Motor Carrier's basis of dispute is Section D.3. of the UIIA. The Motor Carrier received a large per diem invoice from the Equipment Provider for a unit that was outgated on a port chassis on 7/17/2019 and ingated on 1/31/2020. Due to the chassis having brake issues, the Motor Carrier had the chassis inspected by the chassis pool provider, CCM. CCM needed to order parts for the brakes that took a substantial amount of time. The Motor Carrier notified the Equipment Provider of the problem with the brakes and that they had the container dismounted from the port chassis and mounted on one of its own chassis so that CCM could recover the bare chassis for the repair. The Motor Carrier also paid for the wrecker services to place the container on the other chassis.

Due to the length of time the container had been out, the Motor Carrier asked the Equipment Provider in October 2019 if they needed to load the empty container or purchase it for the cost of the DV. Additional inquiries were made regarding what should be done with the empty container at the end of October as well as in December 2019. Ongoing communications took place with the Equipment Provider during this period with the Motor Carrier indicating in December 2019 that they did not reload the chassis as they were not sure what needed to be done due to the circumstances. Consequently, the Motor Carrier believes they made several attempts to settle this issue with the Equipment Provider to avoid the large per diem billing so that they should not be held responsible for these charges. In addition, the Motor Carrier indicates that the reason the container was out for the extended period stemmed from the brake issue which was beyond their control.

EQUIPMENT PROVIDER'S RESPONSE TO MOTOR CARRIER'S DISPUTE:

The Equipment Provider responded to the claim stating the facts and comments below:

- Container outgated on 7/17/2019
- Chassis pool could not locate the parts that were needed to fix the chassis.
- On 9-27-2019 the container was flipped onto the Motor Carrier's chassis and the bad order chassis was put on a flatbed/wrecker and removed.
- E-mails were exchanged between the Motor Carrier and Equipment Provider about having a phone call about this container.
- On December 18, 2019, the Motor Carrier was asked why the container had not been returned once it was moved to the new chassis as the container was not damaged.
- Container was returned loaded on 1-31-2020 to the port.

The Equipment Provider believes that because there was no damage to the container, and it was usable as evidenced by the fact that it was returned loaded, that there was no reason for the delay in the return of the container. If the Motor Carrier had returned the container once it was moved to the other chassis, then the Motor Carrier would have only incurred the per diem that the customer caused. The Equipment Provider adjusted the invoice to reflect that the Motor Carrier was not responsible for per diem from 7-28-19 until 9-27-2019 and reduced the invoice to show the revised amount of \$00.00.

DECISION

The modal panel members reviewed the case and all supporting documentation. The Motor Carrier panel member noted that neither party in this claim communicated well and that there was no evidence that the Equipment Provider responded to the Motor Carrier's inquiry regarding how to handle the return of the container. The Motor Carrier panel member also noted that the Motor Carrier incurred expenses for the wrecker and flipping the container onto its own chassis. Therefore, the Motor Carrier panel member thought the Motor Carrier should not be held responsible for the per diem charges since the issue originated because of the brake issue with the chassis, which was no fault of the Motor Carrier.

The Ocean Carrier panel member found in favor of the Equipment Provider indicating that he thought the Motor Carrier lost track of the container and that nothing precluded the Motor Carrier from returning the container once it was flipped to the Motor Carrier's own chassis.

In accordance with Exhibit D, Item D.3. of the UIIA, when the two modal arbitration panel members are unable to reach a consensus on the case decision, the claim is forwarded to the senior arbitration panel to make the final determination in the case. Upon review, the senior arbitration panel believes that the involved parties should have been able to work together towards a reasonable settlement in this case without having to revert to binding arbitration. The senior panel thought both parties shared some fault in the case. The Motor Carrier should have returned the equipment once the unit was flipped to its own chassis, which would have avoided the large per diem bill. The Equipment Provider did not respond to the Motor Carrier's inquiries regarding the return of the container and the panel felt that the per diem billing issued was not reasonable as it far exceeded the value of the container. Consequently, because there was fault on the part of both parties, the senior arbitration panel rendered its decision in favor of the Equipment Provider but only for the amount equal to the depreciated value of the container, which the Equipment Provider confirmed was \$00.00. It was the consensus of the senior arbitration panel that this was a fair and equitable way to resolve the dispute for both parties.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The senior arbitration panel relied upon the following provision to make its decision:

E. Equipment Use

- 6. Free Days, Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage Charges
 - b. Motor Carrier shall be responsible for Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges set forth the Addenda. **[Revised: 01/17/2012]**

DECISION: The senior arbitration panel unanimously finds in favor of the Equipment Provider for the amount equal to the depreciated replacement value of the container which is \$00.00.

CASE REVIEWED AND DECIDED BY:

Chris Giltz, Motor Carrier Panel Member

Ronnie Armstrong, Ocean Carrier Panel Member

Dave Manning, Senior Motor Carrier Panel Member

Al Smeraldo, Senior Ocean Carrier Panel Member

Bill Traub, Senior Rail Carrier Panel Member

**UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT
DISPUTE RESOLUTION PANEL REVIEW AND DECISION**

In the Dispute Between

UIIA MC,

Appellant,

UIIA EP,

Respondent.

Case Number: **20220822-32-XXXI-PD**

Date of Decision: 04/26/2023

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICE:

	Invoice Number	Unit #	Invoice Date	Facility	Outgated	Ingated	Date MC Rec'd Invoice	Date MC Disputed Invoice	Date EP Responded only confirmed receipt of dispute	Date Notice of Intent Received
1	100001858918P	MEDU4816340	7/26/2022	No. Charleston Terminal	6/10/2022	06/20/2022	7/29/2022	2/23/22	8/11/2022	8/17/2022

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier is basing its dispute on Sections E.6.b. of the UIIA. The Motor Carrier states that the Equipment Provider issued a per diem invoice for \$00.00, however the invoice indicates the start date of the free time is June 7, 2022 versus the outgate date of June 10, 2022. The Motor Carrier believes that the free time calculations on the invoice are incorrect pursuant to the Equipment Provider's addendum, Effective October 1, 1999, Revised March 5, 2021 ("Addendum") that states: "Free Time shall be allowed as per outlined below for all MSC equipment. It includes day of pick-up, day of return, plus any weekend or holiday within this period, if any. All days are billable after the expiration of free time." The Motor Carrier believes that the start date on the invoice should be June 10, 2022, which is the date of outgate and should be the date utilized when calculating the free time. Based on this the free time would start on June 10, 2022, and the free time terms are 14 days including day of pick-up, day of return and weekends/holidays. Using this calculation there would be no per diem charges incurred as free time would expire on June 23, 2022. The unit was ingated on June 20, 2022.

EQUIPMENT PROVIDER'S RESPONSE TO MOTOR CARRIER'S DISPUTE:

The Equipment Provider did not provide any comments during the 15-day comment period, but it did respond to the Motor Carrier's initial dispute stating that the customer received combined per diem free time, which for imports starts the clock when the container is discharged from the vessel (IDV) or unloaded from the rail (IDR).

DISCUSSION:

The panel carefully reviewed all documents and information provided by the parties. The Motor Carrier's claim states that the dispute is based on Section E.6.b. of the UIIA which states:

"Motor Carrier shall be responsible for Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges set forth in the Addenda." **[Revised 01/17/12]**

The Motor Carrier claims that the invoiced charges are not valid due to the Equipment Provider's contractual free time stipulated in the Equipment Provider's UIIA addendum which states that per diem starts from the outgate date while the invoice in dispute starts per diem from the discharge date. The Motor Carrier claims that the amount invoiced does not accurately consider the free time provided to the customer for this equipment move.

The Equipment Provider states that the customer contract that applies starts from the discharge date, but the number of free days are different. The Equipment Provider does not explicitly state in its response to the Motor Carrier's initial dispute of the charges but implies that free days have been extended under the customer contract.

The arbitration panel believes that the section of the UIIA that applies in this dispute is Section E.6.d. which states:

Notwithstanding anything to the contrary in this Agreement, when a Motor Carrier disputes a Per Diem invoice on the basis that the amount due is greater than the amount that would otherwise be due under a separate third party agreement, the Motor Carrier must provide documentation supporting this claim, and the Provider shall not suspend the Motor Carrier's interchange privileges until the discrepancy has been resolved by the Provider. **[Revised 05/01/20]**

The Motor Carrier has provided documentation that it is disputing the invoice as well as the customer confirmed that the invoice was incorrectly billed, therefore Section E.6.d of the UIIA applies. Based on Section D.11. of Exhibit D, the panel requested staff to reach out to the Equipment Provider and recommend that they attempt to resolve the question of the correct free time terms for the billing with the customer directly, which would result in the matter being resolved and the Motor Carrier being able to withdraw the arbitration claim. Staff reached out to the Equipment Provider with the panel's request and was provided five business days to resolve the matter with the customer directly.

The Equipment Provider did not respond to the arbitration panel's request to resolve the matter directly with the customer. Consequently, the panel rendered its decision based on the evidence presented by the involved parties in the claim. The arbitration panel indicated that the Equipment Provider did not take advantage of the opportunity to clear up the facts of the case along with the arguments. There was no evidence presented by the Equipment Provider to dispute the Motor Carrier's claim that the billed charges were incorrect. Since the Equipment Provider did not respond to a request for it to resolve the invoice discrepancy pursuant to Section E.6.d. of the UIIA, the Motor Carrier should not be required to pay an inaccurate invoice. Therefore, the panel finds in favor of the Motor Carrier.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (April 23, 2021) to make its decision:

Section E.6. – Free Days, Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage Charges, Items E.6.b. and E.6.d.

- b. Motor Carrier shall be responsible for Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges set forth in the Addenda. [Revised 01/17/12]
- d. Notwithstanding anything to the contrary in this Agreement, when a Motor Carrier disputes a Per Diem invoice on the basis that the amount due is greater than the amount that would otherwise be due under a separate third party agreement, the Motor Carrier must provide documentation supporting this claim, and the Provider shall not suspend the Motor Carrier's interchange privileges until the discrepancy has been resolved by the Provider. [Revised 05/01/20]

DECISION:

The panel unanimously finds in favor of the Motor Carrier based on Section E.6.d of the UIIA. The Motor Carrier is not responsible for invoice No. 100001858918P in the amount of \$00.00.

CASE REVIEWED AND DECIDED BY:

CHRIS GILTZ
Motor Carrier Panel Member

RONNIE ARMSTRONG
Ocean Carrier Panel Member