

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

BINDING ARBITRATION PANEL REVIEW AND DECISION

In the Dispute Between)	
)	
)	
UIIA Motor Carrier,)	Case Number: 20121031-1-XXXC-PD
Appellant, and)	
)	
UIIA Equipment Provider,)	
Respondent)	Date of Decision: 03/08/2013
)	

UNDISPUTED FACTS: The Equipment Provider (EP) sent the Motor Carrier (MC) a Per Diem invoice 01024, dated 10/30/2012, in the amount of \$00.00. The invoice states the following: "Chassis: MSCZ415508, Container: CARU9634391, Type: 40xx, Description: Bare Chassis Per-Diem, Start Date: 08/31/2012, End Date: 09/22/2012, Days: 22."

The out-gate EIR shows that the unit was out-gated at the BNSF Railway facility on 07/27/2012 and in-gated at the CSX Bedford Park facility on 08/02/2012.

ISSUE: The MC stated that their driver picked up the CMA-CGM container on another EP's chassis at the BNSF rail facility on 7/27/2012 and then in-gated the empty container and chassis at the CSX Bedford Park facility on 08/02/2012, as requested by CMA-CGM. Therefore, the MC feels that because the unit was in-gated at the CSX rail facility and that the in-gate EIR indicates the same, they should not be charged after the date of interchange 08/02/2012. The MC also disputes that the necessary backup information was not supplied by the EP to support the invoice. The MC bases their dispute on Section E.6.d of the UIIA.

The EP submitted no response to this UIIA dispute.

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties. The panel finds in favor of the MC. The MC out-gated the equipment on 07/27/2012. Upon the return of the equipment, CMA instructed the MC's driver to in-gate the equipment at CSX rail facility on 08/02/2012. The MC then learned from MSC that the chassis needed to be returned to the BNSF Railway facility. Two attempts were made by the MC to return the chassis from the CSX facility to BNSF but it was unsuccessful due to the fact that the chassis on both occasions was out-gated by other motor carriers. The panel requested the EP to provide the movement history of the chassis in question. The EP did not respond to this request. Therefore, the panel finds that all the evidence supports that CMA was the interchanging EP and that the MC had no reason to believe contractually or during the interchange process that CMA was not the interchanging party. In addition, the EP (MSC) billing the charges failed to comply with provision E.6.d of the UIIA because they were unable to provide documentation as is reasonably necessary to support Invoice No. 01024.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (June 10, 2012) to make its decision:

E. Equipment Use

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

- d. Provider shall provide the Motor Carrier documentation as is reasonably necessary to support its invoice.

DECISION: The panel unanimously finds in favor of the MC.

CASE REVIEWED AND DECIDED BY:

JEFFREY LANG
Motor Carrier Member

DAVID DALY
Ocean Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

DISPUTE RESOLUTION PANEL REVIEW AND DECISION

In the Dispute Between)

UIIA Motor Carrier)
Appellant, and)

UIIA Equipment Provider)
Respondent)

Case Number: **20130717-2-XXXJ-PD**

UNDISPUTED FACTS: The Equipment Provider (EP) sent the Motor Carrier (MC) Invoice CALE0104642, dated July 01, 2013 for per diem charges totaling \$00.00. The invoice stated the following: "Equipment Export Detention Charges, Start Event Data: March 28, 2013 – Gate out Empty – New York, NY-APM Elizabeth NJ, From Date: March 28, 2013 to April 26, 2013, Days: 21, Type: Working, Rate: \$0.00 From Date: April 27, 2013 to June 21, 2013, Days 56, Type: Calendar, Rate: \$00.00."

The out-gate EIR indicated that the unit was picked up at the APM Terminal in Newark on 03/28/13. There was no in-gate EIR provided. The EP claims the unit was involved in an accident and was listed as a "total loss".

ISSUE: The MC disputes the invoice stating that the driver who pulled the container illegally used their SCAC code. The MC indicates that their company was never contacted by the shipper to handle the freight nor have they ever had business dealings with this shipper in the past. Consequently, the MC believes that they are not liable for any charges associated to the container in question since their SCAC Code was utilized fraudulently without their authorization. The MC is basing their dispute on Section E.3.a (1) of the UIIA in that the Provider has not provided sufficient evidence to supports the charges billed.

The EP responded to the MC's dispute stating that the driver involved, Marcus Marquez, was employed with the MC at the time he interchanged this container therefore making the MC ultimately responsible for the condition of the equipment and its return to the EP. The EP is declining the MC's dispute per section D.1 of the EP's addendum to the UIIA.

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties. The panel determined that additional information would be needed from the parties before a decision could be rendered in this case. Additional information requested by the panel of the Responding Party in this case was:

- 1) Comment from Broker/Shipper of their shipping instructions and to whom this information was sent.
- 2) Confirmation of the Party that the EP paid for the transportation services.
- 3) Dates of the pictures and communications between Newport Systems and ATI
- 4) Confirmation of who ATI is and their involvement?
- 5) Copy of police reports and reason why equipment was moved to FJF Trucking (MC that in-gated equipment)?

Based on the responses provided by the Responding Party to the above request for additional information, the panel was able to determine the following:

- The shipper of record (ATI USA, Inc.) allowed its customer to select the trucking company to do the move. The shipper provided the Responding Party (EP) with a telephone number and name of a person named Francis, which verbally stated that they hired the Moving Party (MC) for this move, but repeated requests by the EP for confirmation of this in writing were ignored.
- The EP confirmed that this was a merchant haulage move and therefore they did not hire the trucking company nor pay for transportation services.
- The EP also confirmed that they did not give any direction for the equipment to be moved to FJF Trucking.
- In regards to the police report, the EP confirmed they never received a copy of the report. After the panel requested a copy of this document, the Responding Party made several attempts to obtain a copy from the shipper, but no police report was produced. The Moving Party also tried to

obtain the police report from the shipper and was told that although driver was cited for reckless driving that the police report could not be found.

The panel also noted that based on e-mail communications provided with the case, the MC had reported misuse of its SCAC Code to Vivianne Scott with Delmas (EP) on April 11, 2013, which was prior to per diem invoice being issued and the free time expiring. In an e-mail dated, April 12, 2013, Vivianne Scott confirmed the container in question was in-gated full by FJF Trucking, however had been out-gated empty based on out-gate EIR showing EXQJ as the MC. The shipping documentation showing the trucking company that was ordered to pick up the empty container for loading should have been available to the EP thru the shipper to confirm if the MC EXQJ was the company hired for this move. In addition, the MC had also provided a signed letter from the driver that stated the MC had not dispatched the driver for the movement of this container, but that this work had been dispatched to the driver by FJF Trucking.

Because the panel was unable to obtain copies of pertinent documentation relating to circumstances surrounding this claim, (i.e. shipping instructions, confirmation of the trucking company that was hired for this move, the police report and information confirming who instructed the equipment to be moved to FJF Trucking), the panel determined that the EP did not provide sufficient documentation to support that the Moving Party was responsible for the per diem invoice in accordance with Section E.6.d. of the UIIA.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (November 12, 2012) to make its decision:

E. Equipment Use

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

d. Provider shall provide the Motor Carrier documentation as is reasonably necessary to support its invoice.

DECISION: The panel unanimously finds in favor of the MC.

CASE REVIEWED AND DECIDED BY:

ROBERT CURRY
Motor Carrier Member

DICK DESIMON
Ocean Carrier Member

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

UIIA MC,
Appellant, and

Case Number: **20160301-6-XXXP-PD**

Date of Decision: 07/01/2016

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICES:

						Date MC stated they rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute
Inv. #	Invoice	Inv. Date	Facility	Outgated	Ingated			
1	UASCCQGPD32708	7/21/15	NIT/Cleveland	6/2/15	6/10/15	2/17/16	2/22/16	2/26/16
2	UASCCQGPD32988	7/22/15	Columbus NS Ramp/ContainerPort	6/5/15	6/18/15	2/17/16	2/22/16	2/26/16
3	UASCCQGPD32989	7/22/15	Columbus NS Ramp/ContainerPort	6/4/15	6/18/15	2/17/16	2/22/16	2/26/16
4	UASCCQGPD32990	7/22/15	Global Terminal/Cleveland	6/11/15	6/19/15	2/17/16	2/22/16	2/26/16
5	UASCCQGPD32991	7/22/15	Sharonville OH/ContainerPort	6/10/15	6/17/15	2/17/16	2/22/16	2/26/16
6	UASCCQGPD33453	7/23/15	Global Terminal/Global Terminal	6/19/15	6/26/15	2/17/16	2/22/16	2/26/16
7	UASCCQGPD33454	7/23/15	PNCT/PNCT	6/18/15	6/25/15	2/17/16	2/22/16	2/26/16
8	UASCCQGPD33455	7/23/15	PNCT/PNCT	6/22/15	6/30/15	2/17/16	2/22/16	2/26/16
9	UASCCQGPD33979	7/27/15	Sharonville/ContainerPort	6/23/15	7/1/15	2/17/16	2/22/16	2/26/16
10	UASCCQGPD34322	7/27/15	Sharonville/ContainerPort	7/1/15	7/9/15	2/17/16	2/22/16	2/26/16
11	UASCCQGPD34323	7/27/15	Sharonville/Sharonville	7/1/15	7/9/15	2/17/16	2/22/16	2/26/16
12	UASCCQGPD33978	7/27/15	Sharonville/ContainerPort	6/24/15	7/1/15	2/17/16	2/22/16	2/26/16
13	UASCCQGPD33980	7/27/15	Sharonville/ContainerPort	6/24/15	7/1/15	2/17/16	2/22/16	2/26/16
14	UASCCQGPD34693	7/29/15	St. Louis/ContainerPort	6/10/15	7/17/15	2/17/16	2/22/16	2/26/16

15	UASCCQGPD34694	7/29/15	NIT/Virginia Int'l Gateway	7/9/15	7/20/15	2/17/16	2/22/16	2/26/16
16	UASCCQGPD34695	7/29/15	Cleveland/Cleveland	7/10/15	7/17/15	2/17/16	2/22/16	2/26/16
17	UASCCQGPD34696	7/29/15	Cleveland/Cleveland	7/10/15	7/17/15	2/17/16	2/22/16	2/26/16
18	UASCCQGPD35002	7/19/15	Mo-Kan Cntr Svcs/Kansas City	7/10/15	7/17/15	2/17/16	2/22/16	2/26/16
19	UASCCQGPD35123	8/3/15	PNCT/ContainerPort	7/20/15	7/28/15	2/17/16	2/22/16	2/26/16
20	UASCCQGPD35546	8/3/15	APM Terminal/APM Terminal	7/21/15	7/28/15	2/17/16	2/22/16	2/26/16
21	UASCCQGPD35547	8/3/15	APM Terminal/APM Terminal	7/21/15	7/28/15	2/17/16	2/22/16	2/26/16
22	UASCCQGPD35548	8/3/15	PNCT/PNCT	7/20/15	7/30/15	2/17/16	2/22/16	2/26/16
23	UASCCQGPD35584	8/11/15	PNCT/APM Terminal	7/28/15	8/5/15	2/17/16	2/22/16	2/26/16
24	UASCCQGPD35585	8/11/15	APM Terminal/APM Terminal	7/28/15	8/5/15	2/17/16	2/22/16	2/26/16
		Total:						

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 believes that they are not liable for payment of these invoices.

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

The Equipment Provider submitted comments and backup documentation indicating that the invoices had been sent within the established sixty (60) day timeframe, but that during a system enhancement an error was encountered that caused emails being sent from the Equipment Provider to show the To/From email addresses as the Motor Carrier's email address. The Equipment Provider reported that there was no reference to the Equipment Provider's email address as the sender in these e-mail communications. The Equipment Provider acknowledged that this problem may have caused an issue with some mail servers identifying the email message as spam. The Equipment Provider confirmed that the error was corrected and shortly thereafter statements of outstanding charges were sent to all open accounts. This occurred outside of the 60 day timeframe.

DISCUSSION:

After careful review of all documents and the evidence submitted by the parties, the panel finds in favor of the Motor Carrier. The Motor Carrier panel member stated that the evidence provided by the Motor Carrier validates that the Motor Carrier requested the invoices in question on multiple occasions; once on September 30, 2015, twice on November 17, 2015, and again on February 17, 2016, at which time they finally received the requested invoices. The Motor Carrier panel member notes that while the Equipment Provider contends they provided the invoices in a timely manner, the evidence furnished is questionable because the e-mail communications provided show the "from" line as being sent from the Motor Carrier. In addition, the Equipment Provider admitted to experiencing issues with their email system. The Equipment Provider was aware they were having issues and were also provided ample opportunity to resend invoices at the time the Motor Carrier requested them. However, the Equipment Provider failed to timely provide the invoices even after multiple requests.

The Ocean Carrier panel member agreed with the Motor Carrier panel member's decision stating that the e-mail communications that included the invoices being addressed from the Motor Carrier was a good reason for the Motor Carrier to automatically filtered these e-mail messages and, further, that the Equipment Provider failed to resend the invoices following the Motor Carrier's September 30, 2015, and November 17, 2015, requests.

DECISION:

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (June 8, 2015) 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 Motor Carrier.

CASE REVIEWED AND DECIDED BY:

ROBERT A. CURRY
Motor Carrier Member

DAVE DALY
Ocean Carrier Member

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

$$\begin{array}{c}) \\) \\) \\) \\) \\) \\) \end{array}$$

Date of Decision: 07/25/2016

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICE:

Inv. #	Invoice	Inv. Date	Facility	Outgated	Ingated	Date MC stated they rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute
1	UASCCQGP49270	03/10/16	PCT/West Basin Container Terminal (WBCT)	11/9/15	2/26/16	03/10/16	03/10/16	03/21/16

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier's basis of dispute is Section E.6.d of the UIIA. The Motor Carrier stated that the first invoice received indicated the charges were based on the Equipment Provider declaring the container as "stolen". The Motor Carrier disputed the stolen container invoice by providing the Equipment Provider with the ingate EIR and stating that the container was already ingated and back in their possession. However, a week later on March 2, 2016, the Equipment Provider informed the Motor Carrier that they had located the container and voided the original invoice. On March 10, 2016, the Equipment Provider issued a per diem invoice in the amount of \$00.00 for the same container. The Motor Carrier believes that there was a miscommunication between the driver and the facility operator claiming that the Steamship line code was "PAS" instead of "UAS"; however, when the Motor Carrier contacted the West Basin Container Terminal ("WBCT"), WBCT stated "if the container is UAS and the driver by mistake says PAS, the system should reject the cross input, given that the line has updated their lease list in their system." The Equipment Provider requested that the Motor Carrier remit payment of 50% of the per diem invoice because the Equipment Provider insists it was the mistake of the Motor Carrier's driver stating the wrong shipping line when the unit was returned. The Motor Carrier believes this was an in-house mistake

by the facility/Equipment Provider and does not believe they should be responsible for the unreasonable per diem invoice issued by the Equipment Provider.

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

The Equipment Provider submitted comments stating that the container was entered into the facility under another steamship line's inventory, not under UAS's inventory. The Equipment Provider believes the EIR that was provided to the Motor Carrier at ingate should have prompted the Motor Carrier to correct it in a timely manner. The Equipment Provider feels that the miscommunication was on the driver's part, but offered to adjust the invoice by 50%, \$00.00.

DISCUSSION:

After careful review of all documents and the evidence submitted by the parties, the panel finds in favor of the Motor Carrier. The Motor Carrier panel member stated that the failure to accurately apply the UAS code to this particular interchange appears to have resulted from the fact that the Equipment Provider had not updated their lease list with WBCT. In addition, there is no evidence to suggest or prove that the driver gave the wrong Provider information to WBCT, and it is highly likely that the last lease list in the WBCT system that contained this particular container number was provided by PAS. The Motor Carrier panel member stated that the failure of the Equipment Provider to update their fleet file with WBCT (acknowledged by the Equipment Provider in a March 21, 2016 email) caused the wrong Provider to be listed on the ingate interchange. The Motor Carrier panel member notes that a Motor Carrier has no obligation under Section E.1 to protect an Equipment Provider from its own error, nor pay an Equipment Provider for an error that it did not commit.

The Ocean Carrier panel member agreed with the Motor Carrier panel member's decision, but asked for confirmation that WBCT was a valid return location for that Equipment Provider. The Equipment Provider confirmed that WBCT was a valid return location. The Ocean Carrier panel member stated that the receipt of equipment for the incorrect Equipment Provider is the responsibility of the facility operator who is contracted by the Equipment Provider, not the Motor Carrier. As such, allocating any portion of the per diem to the Motor Carrier would be inappropriate.

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

1. Equipment Return

- b. Motor Carrier shall return the Equipment to the physical location at which the Equipment was received unless the Provider directs the Equipment to be returned to a satellite location(s): 1) as governed by a written bilateral equipment interchange agreement between the Parties or 2) as specified in a notification from the Provider to Motor Carrier via internet posting or e-mail to return the Equipment to a Provider-designated satellite location, listed in IANA's Equipment Return Location Directory (ERLD). Satellite location(s) are facilities which are within the same local commercial territory and support operations of the Provider for the location from which the Equipment was originally received. Whenever a return location is changed, Provider must notify the Motor Carrier by e-mail by 16:00 p.m. local time the business day prior to the change becoming effective. Motor Carrier must furnish the Provider with e-mail addresses to be used for Motor Carrier notification when return locations are changed. [Revised 02/08/16]

E. Equipment Use

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

- d. Provider shall provide the Motor Carrier documentation as is reasonably necessary to support its invoice.

DECISION: The panel unanimously finds in favor of the Motor Carrier.

CASE REVIEWED AND DECIDED BY:

FRED HUENNEKENS

Motor Carrier Member

ROBERT CANNIZZARO

Ocean Carrier Member

In the Dispute Between

Case Number: **20160829-1-XXXP-PD**

Date of Decision: 03/9/17

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	PD00144346	CCLU4786775	08/19/16	OICT-SSA Oakland/Container Traders	1/20/16	1/21/16	8/19/16	8/19/16	8/24/16	8/29/16

The Motor Carrier's basis of dispute are Sections E.1, E.2.a., E.6.c and E.6.d of the UIIA. The Motor Carrier reports that it pulled the unit from OICT (SSA) on January 20, 2016. When they returned the unit the next day (January 21, 2016), the unit was rejected and the Port advised the Motor Carrier to contact the Equipment Provider for instructions. The Motor Carrier stated their dispatch office contacted the Equipment Provider's Equipment Team at the number provided by the port and was instructed to return the container to 2405 West 14th Street in Oakland, California under release number P184938. The Motor Carrier complied with these instructions, returned the unit to the other location, and obtained an interchange showing matching container and release number.

The Motor Carrier stated that on June 13, 2016, they were asked by the Equipment Provider to provide an update on the container and to send a copy of the interchange if it was returned. The Motor Carrier provided the Equipment Provider with a copy of the ingate. On August 15, 2016, the Motor Carrier received an invoice from the Equipment Provider showing the container value of \$00.00. On August 19th 2016, the Motor Carrier received another invoice from the Equipment Provider showing per diem charges from January 20, 2016 thru August 10, 2016 in the amount of \$00.00. On August 22, 2016, the ingating facility confirmed that the unit was mistakenly listed as a sales container and the container was sold. However, Cube/TCT (the alternate return location) did confirm that they would pay the invoice for the cost of the container of \$00.00. As for the per diem invoice, the Motor Carrier feels that they should not be held liable for the per diem invoice since they complied with the instructions that were provided by the Equipment Provider in regards to the return of the equipment.

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

The Equipment Provider responded to the claim stating that the container should have been ingated at the same location it was originally picked up, which was (OICT (SSA)) and that TCT (The Container Traders) is not a depot used by the Equipment Provider. The Equipment Provider provided an e-mail communication from the OICT (SSA) facility confirming that their records showed that there were never any "no return" constraints on this container during the interchange dates associated with this claim. In addition, the Equipment Provider also stated that it confirmed that the release number P184938 was not associated with the CCLU4786775 container related to this dispute. This release number was related to unit CCLU2746006, which was redelivered on January 22, 2016. Therefore, the Equipment Provider feels that the Motor Carrier is responsible for the per diem invoice since the container should have been returned to the original point of interchange.

DECISION:

The panel carefully reviewed all documents and evidence submitted by the parties. Based upon the supporting documents and evidence, the Motor Carrier panel member finds in favor of the Motor Carrier noting that the Motor Carrier returned the unit to a location directed by the Equipment Provider and has interchange documentation to substantiate the return. The Motor Carrier panel member commented that the Motor Carrier should not be held responsible for whatever confusion occurred between Cube/TCT and the Equipment Provider. The Motor Carrier panel member does not believe the Equipment Provider provided evidence to refute the Motor Carrier's claim.

The Ocean Carrier panel member finds in favor of the Equipment Provider. The Ocean Carrier panel member believes the facts show the Equipment Provider had a return location of OICT that indicated there was no restriction on return. The Ocean Carrier panel member states that the Motor Carrier provided no evidence that they were turned away from the return location. In addition, the release number provided by the Motor Carrier is not for the container in question and there is no written correspondence between the Equipment Provider and the Motor Carrier regarding this transaction. Follow-up by the Equipment Provider in June ultimately revealed that the Motor Carrier took the container to a different location than expected and was ultimately sold.

Because the modal members could not reach a consensus, the third panel member was brought in to render the final decision pursuant to Exhibit D 3. Of the UIIA.

The Rail panel member also finds in favor of the Equipment Provider. The Rail panel member observed the following:

1. The Motor Carrier stated they attempted to return the unit to the original location of pick-up and that the terminal (OICT) turned them away at the gate stating that the container could not be returned there; however, no documentation was provided by the Motor Carrier or OICT that confirms this rejection.
2. The Motor Carrier stated that they called the Equipment Provider's Equipment Team for an alternate return location and was provided a release number (P184938) with instructions to take the unit to Cube/TCT where the container was ultimately sold in error; however, no written documentation was provided confirming return instructions that Motor Carrier stated it received from the Equipment Provider.

In addition, the Rail panel member commented that although she believes verbal communication may have taken place between the Equipment Provider's Equipment Department and the Motor Carrier, there is not sufficient documentation to substantiate that the Motor Carrier was provided instructions to redeliver the unit to Cube/TCT.

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

1. Equipment Return

- a. Absent a separate bilateral equipment interchange agreement in written or electronic form between the Parties, the Motor Carrier shall use the Equipment for only the purposes for which it was interchanged, not authorize use by others, and promptly return the Equipment after its interchange purpose is complete. An Addendum to this Agreement does not constitute a separate bilateral equipment interchange agreement. **[Revised 02/08/16]**
- b. Motor Carrier shall return the Equipment to the physical location at which the Equipment was received unless the Provider directs the Equipment to be returned to a satellite location(s): 1) as governed by a written bilateral equipment interchange agreement between the Parties or 2) as specified in a notification from the Provider to Motor Carrier via internet posting or e-mail to return the Equipment to a Provider-designated satellite location, listed in IANA's Equipment Return Location Directory (ERLD). Satellite location(s) are facilities which are within the same local commercial territory and support operations of the Provider for the location from which the Equipment was originally received. Whenever a return location is changed, Provider must notify the Motor Carrier by e-mail by 16:00 p.m. local time the business day prior to the change becoming effective. Motor Carrier must furnish the Provider with e-mail addresses to be used for Motor Carrier notification when return locations are changed. **[Revised 02/08/16]**
- c. Provider may add or delete satellite locations to its listing by giving fourteen (14) days written notice to IANA. **[Added 02/08/16]**
- d. Should the notification required under subsection 1.b. above not be made one (1) business day prior to the effective date of the change, and the late notification delayed the Interchange of Equipment, then the Motor Carrier would be entitled to one (1) additional business day to return the Equipment. **[Added 02/08/16]**
- e. Nothing in Section E. shall be interpreted to preclude Motor Carrier from receiving compensation when Provider directs Equipment to be returned to a satellite location. Compensation for services rendered in these circumstances is outside the scope of this Agreement. **[Added 02/08/16]**

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

- 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]**
- d. Provider shall provide the Motor Carrier documentation as is reasonably necessary to support its invoice.

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

CASE REVIEWED AND DECIDED BY:

LaVERSIA (ELLE) SPENCER
Rail Carrier Member

AL SMERALDO
Ocean Carrier Member

DAVE MANNING
Motor Carrier Member

an ingate EIR showing that the loaded, inspected containers were returned back to the port they should not be held liable for per diem after the date of ingate.

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

The Equipment Provider did not respond to the arbitration claim. However, during the Motor Carrier's initial dispute of the charges, the Equipment Provider responded stating that the per diem begins when the container is picked up full and ends when it is returned empty. Per diem is billed to the first trucker that picks up the container. The Equipment Provider stated they do not waive per diem for any reason, this includes custom exams. In addition, the Equipment Provider stated they do not get involved with any type of exams done at an off dock facility.

DECISION:

After careful review of all documents and the evidence submitted by the parties, the panel unanimously finds in favor of the Motor Carrier. The Motor Carrier panel member initially commented that Force Majeure may apply since the box was under the control of U.S. Customs, which was beyond the control of the Motor Carrier. However, after further discussion with the Ocean Carrier panel member agreed that Section E.6.d. was applicable in this case.

The Ocean Carrier panel member also found in favor of the Motor Carrier noting that customs arranged the dray with the trucking company for an exam. The trucking company did not have a relationship with the account of the cargo owner and could not recoup any expenses incurred as a result of the transaction. The Ocean Carrier should have billed their customer the charges according to the terms of the B/L. In addition, while the Provider had documentation that the container was in fact interchanged, it ignored the reasonable dispute from the Motor Carrier about the customs exam and customer related issues. Section E.6.d. of the UIIA applies.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (January 1, 2017) to make its decision:

B. Definitions of Terms

18. Interchange Period: The period, commencing upon Interchange to Motor Carrier and concluding upon Interchange to Provider or another Motor Carrier that is authorized for Interchange by that Provider. **[Revised 06/13/16]**

E. Equipment Use

6. Free Days, Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage Charges
 - d. Provider shall provide the Motor Carrier documentation as is reasonably necessary to support its invoice.

DECISION: The panel unanimously finds in favor of the Motor Carrier.

CASE REVIEWED AND DECIDED BY:

DAVE MANNING

Motor Carrier Member

AL SMERALDO

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

)
)
)
)
)
)
)
)
)
)

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

15	100000337142P	FCIU4086928	10/14/2019	GARDEN CITY TERMINAL	9/19/19	10/3/19	10/14/2019	10/31/19	11/4/19	
16	100000337143P	FCIU6274159	10/14/2019	GARDEN CITY TERMINAL	9/19/19	10/3/19	10/14/2019	10/31/19	11/4/19	
17	100000337144P	MSCU3494916	10/14/2019	GARDEN CITY TERMINAL	9/20/19	10/9/19	10/14/2019	10/31/19	11/4/19	
18	100000337145P	MEDU5468337	10/14/2019	GARDEN CITY TERMINAL	9/19/19	10/4/19	10/14/2019	10/31/19	11/4/19	
19	100000337156P	IPXU3993185	10/14/2019	GARDEN CITY TERMINAL	9/24/19	10/9/19	10/14/2019	10/31/19	11/4/19	
20	100000337157P	MEDU6105399	10/14/2019	GARDEN CITY TERMINAL	9/24/19	10/9/19	10/14/2019	10/31/19	11/4/19	
21	100000338005P	FCIU5775330	10/15/2019	GARDEN CITY TERMINAL	9/18/19	10/2/19	10/15/2019	10/31/19	11/4/19	
22	100000345352P	CAXU6385916	10/31/2019	GARDEN CITY TERMINAL	9/23/19	10/8/19	10/31/2019	10/31/19	11/4/19	
23	100000345355P	TCKU3784503	10/31/2019	GARDEN CITY TERMINAL	9/23/19	10/8/19	10/31/2019	10/31/19	11/4/19	

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier's basis of dispute in Sections E.6. and E.6.e. of the UIIA. The Motor Carrier disputed the invoices stating that these charges would fall under the Equipment Provider's separate agreement with the consignee that sets forth the terms of free time between the parties that is different than what is currently contained under the Equipment Provider's UIIA addendum. The Motor Carrier contends that it is not a party to this agreement and that the Equipment Provider's commercial agreement with the consignee supersedes the UIIA and the Equipment Provider should pursue these charges with the entity that is party to this commercial agreement versus the Motor Carrier. In addition, the Motor Carrier also believes that the Equipment Provider failed to provide the required backup documentation to support their invoices.

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

The Equipment Provider responded to the claim stating that if the service contract gives at least the minimum amount of free time that is filed with the UIIA then the Equipment Provider feels that they are compliant with UIIA standards. On these invoices, the Equipment Provider stated that the Motor Carrier received extended free time that is beyond the standard terms contained in their UIIA addendum. If the Equipment Provider was to go by its terms under the UIIA, the invoice the Motor Carrier received would be increased from from \$10,920.00 to \$40,580.00. In addition, the Equipment Provider indicated that the Motor Carrier never requested additional backup documentation to support its invoices. The Equipment Provider also stated that although the Motor Carrier cannot see the specific terms of the commercial agreement between the Equipment Provider and the consignee, they are aware of the amount of free time provided for these moves. The Equipment Provider also noted that after reviewing the Motor Carrier's account, there have been instances in the past where the Motor Carrier paid per diem charges where service contract free time was applied. As the Motor Carrier is the outgoing trucker of record and the containers were out past either addendum or service contract free time (which the Motor Carrier did not refute), the Equipment Provider feels that the Motor Carrier is responsible for the charges as billed.

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 Motor Carrier panel member commented:

- The Intermodal Interchange Executive Committee (IIEC) clearly regards the UIIA as applicable between the Provider and the Motor Carrier even when there is a commercial agreement between the Provider and its customer. Specifically, E.6.d 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 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 Equipment Provider." This refers to this exact situation. This provision allows the Motor Carrier to stop any enforcement action against itself until the Equipment Provider works with the customer to resolve any discrepancy regarding the terms of free time as it relates to the invoice being disputed. It does not allow the Motor Carrier to claim the UIIA does not apply. It simply allows the Motor Carrier to put any enforcement action on hold while the number of free days are disputed. There does not appear to be any disagreement as to the number of free days the commercial contract grants to the customer in this case.
- The Motor Carrier also claims that if they had known the terms of the contract between the Equipment Provider and the customer, then they could have unloaded the containers and returned them within the free time allowed. That is not logical since the free time afforded the customer was greater than the standard free time and there was nothing stopping the Motor Carrier from unloading the containers.
- There is also a claim that the Equipment Provider failed to provide documentation as required under E.6.e. There doesn't appear to be any specific claim for documentation. As E.6.d removes the Motor Carrier from any dispute over the number of free days until the Equipment Provider and the customer settle the dispute, there is no need to provide a copy of the actual contract.

The Ocean Carrier panel member agreed stating the Equipment Provider has a commercial agreement with the customer that allows for more free time than is listed in the Equipment Provider's UIIA Addendum. The Equipment Provider accounted for this additional free time in the Per Diem invoicing calculation to the Motor Carrier; an amount that is less than would have been invoiced if calculated solely based on the addendum methodology, which complies with UIIA guidelines.

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:

E. Equipment Use

6. Free Days, Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage Charges
 - 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]**
 - e. Provider shall provide the Motor Carrier documentation as is reasonably necessary to support its invoice.

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

CASE REVIEWED AND DECIDED BY:

CHRIS GILTZ
Motor Carrier Member

RONNIE ARMSTRONG
Ocean Carrier 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