

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

In the Dispute Between)	
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)	
UIIA Motor Carrier)	Case Number: 20150420-20-XXXI-MR-TR
Appellant, and)	
)	
UIIA Equipment Provider)	Date of Decision: 10/21/2015
Respondent)	

The Motor Carrier disputes the following invoice:

Invoice	Invoice #	Inv. Date	Amount	Facility Out-gate/ In-gate	Out gate	In gate
1	272945404	2/27/15	\$00.00	UP-Mesquite	12/11/14	12/11/14
2	272908292	2/25/15	\$00.00	UP-Mesquite	1/14/15	1/14/15

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier basis of dispute is that the Equipment Provider did not provide recorded images to prove damages to the left outside front (LOF) tires at the time of in-gate. The images that were provided with the invoice does not identify a company's name, driver or any equipment identification. The Motor Carrier bases its dispute on Sections D.2.c, E.3.a (1) and E.4.b of the UIIA.

EQUIPMENT PROVIDER'S RESPONSE:

The Equipment Provider states that the Motor Carrier did not include the images that were provided with the Invoice 272908292 within the supporting documentation the Motor Carrier furnished when submitting this arbitration claim. The Equipment Provider states that the tire inspection "images" are actually a series of 20 plus images that can be viewed in quick succession like a video. When you play the video of the tires, you see the slid flat damage that has occurred while in the Motor Carrier's possession.

The Equipment Provider went on to note that the Motor Carrier's claim that the authenticity of the images can't be verified is inaccurate, since the Equipment Provider's system "links" the tire images to the J-1 transaction through a unique identified called a "Visit ID". The visit IDs are system generated and cannot be manipulated manually. This is part of the data feed the Equipment Provider receives from its AGS system making it impossible to substitute images as claimed by the Motor Carrier.

The evidence provided, and the documentation that was provided to the Motor Carrier support the billings, and therefore, both of these invoices should stand. The Equipment Provider believes there is irrefutable proof that the damage occurred during the interchange period when the equipment was in the possession of the Motor Carrier.

DISCUSSION:

The panel reviewed all documents and evidence submitted by the parties. The Motor Carrier contends that the billing for tire repairs on the Equipment Provider invoices were not substantiated by AGS images identifying the Motor Carrier equipment attached to each container and chassis at the time of the equipment was returned to the Equipment Provider. The Motor Carrier submitted as evidence two search records to support its argument. However, only one search record applies to the equipment in question (container UMXU 937391 and chassis UPHZ 148585 (Invoice 272945404)). The second search record submitted was for container UMXU 937931 and chassis UPHZ 132082 with interchanged date of 9/7/11. The Equipment Provider did not bill the Motor Carrier for repairs on this equipment. Further, no search record was presented by the Motor Carrier for container EMHU 647772 and chassis UPHZ 132875 (Invoice 272908292).

The Equipment Provider submitted detailed interchange records and images for the equipment that was invoiced to the Motor Carrier. The records show that the Motor Carrier name and driver information was listed in the documentation. Further, the in-gate and out-gate images identifies the Motor Carrier truck hooked to each container and chassis included in Equipment Provider's billing on invoices 272945404 and 272908292. The damage to the tires included on both invoices are clearly visible. The search record submitted by the Motor Carrier for the container and chassis on invoice 272945404 did fail to produce images of the damaged equipment. However, a failed search is not sufficient evidence to refute the interchange records and AGS images provided by the Equipment Provider.

The panel notes that if the Motor Carrier was having trouble searching for the images in the Equipment Provider's website, they could have sent an e-mail or otherwise communicated to the Equipment Provider that they were having trouble getting the information they needed. There doesn't appear to be any record that the Motor Carrier tried to contact the Equipment Provider. Under section E.3.c.2 of the UIIA, the Equipment Provider is to "issue an invoice no later than 120 calendar days from the date of Interchange at the time the Damage was documented." The panel has review the evidence and finds that the Equipment Provider's invoices were sent within the time frame set forth in E.3.c.2 of the UIIA.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (January 26, 2015) to make its decision:

E. Equipment Use....3. Damage to Equipment

c. Provider shall invoice Motor Carrier no later than the following timeframes: If Motor Carrier is not invoiced within the established timeframes, the right of the Provider to recover such charges will be lost: **[Revised 01/17/12]**

2) AGS Gate System (unmanned): Invoices for repair of Damages must be issued no later than 120 calendar days from the date of Interchange at the time the Damage was documented.

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

CASE REVIEWED AND DECIDED BY:

FRED HUENNEKENS
Motor Carrier Member

TIM S. WILLIAMS
Rail 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)

Case Number: **20160411-10-XXXT-MR-OTH-D8**

Date of Decision: 7/18/2016

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICE:

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	UASCCQGMS2294	UACU8486215	03/21/16	South FL Container Terminal (SFCT)/SFCT	02/25/16	03/07/16	03/23/16	03/29/16	04/05/16	04/11/16

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier's basis of dispute is Sections D.2.a and D.3.d of the UIIA, which in part, states the "Motor Carrier will return Equipment to the Provider in the same condition, reasonable Wear and Tear excepted." The Motor Carrier believes that the damage billed by the Equipment Provider was pre-existing when the Motor Carrier outgated the unit. The Motor Carrier stated that it is their drivers practice to not ask for a secondary inspection or make any notations if they see the damage is marked "old" on the EIR, which is what occurred in this case.

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

The Equipment Provider responded by stating that the UIIA guidelines require truckers to do a visual inspection of the container and to note any damages prior to outgate. The Equipment Provider reports that it confirmed with the facility, South Florida Container Terminal (SFCT), that their system is setup to list all damages as "old damage", however, the facility is in the process of having their system changed over by next year to show "damage" instead of "old damage". The Equipment Provider also stated that photos clearly

show a fresh cut and, further, that the terminal operator and the Motor Carrier should have had no issues seeing the damage to the container. The Equipment Provider believes that because the images show new damage, the invoice should stand.

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 while he is somewhat sympathetic to the South Florida Container Terminal (SFCT) computer glitch, the fact remains that the ingate says "old damage". In addition, the photos cannot be verified to be photos of that container at the time of interchange. Consequently, the Motor Carrier panel member believes that the Equipment Provider lacks the "factual documentation" to prove that the Motor Carrier is responsible for the damages.

The Ocean Carrier panel member also found in favor of the Motor Carrier. Both panel members expressed disappointment that the parties could not resolve a \$70.00 invoice.

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:

- D. Equipment Interchange
 - 2. Equipment Interchange Receipts
 - a. At the time of Interchange, the Parties or their agents shall execute an Equipment Interchange Receipt and/or exchange an electronic receipt equivalent, which shall describe the Equipment and any Damage observable thereon at the time of Interchange, reasonable Wear and Tear excepted. The physical condition of the Equipment may be described by either Party within the EIR or via Recorded Images taken at the time of Interchange. **[Revised 05/12/10]**
 - 3. Equipment Condition
 - d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.
 - 1) The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**

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

CASE REVIEWED AND DECIDED BY:

JEFFREY LANG
Motor Carrier Member

THOMAS BARATTINI
Ocean 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)

Case Number: **20170822-1-XXXT-MR-OTH**

Date of Decision: 10/18/2017

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	NJ-05-17-334-C	KKFU806404-1	5/25/17	Columbia/Maher	03/31/17	04/03/17	07/19/17	07/19/17	08/11/17	08/22/17
<p>Outgate EIR indicated the following damage: Right side panel bent – usable, Left side panel bent – usable, Front panel bent – usable. In-gate EIR indicated the following damage: Major Repair: 10 – Left Whole/Panel Assembly/Bent, 20 – Front Whole/Panel assembly/bent, 30 – Front whole/Corner post assembly/Bent.</p>										

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier's basis of dispute is Sections E.3.c. and D.3. of the UIIA. The Motor Carrier stated that the Equipment Provider did not bill them within the required timeframe and that they are being billed for pre-existing damage. The Motor Carrier also stated that the invoice was issued by the Equipment Provider on May 25, 2017, but was not received by the Motor Carrier until July 19, 2017, when the Equipment Provider followed up regarding a payment for the invoice. The Motor Carrier noted that they provided the outgate EIR dated 03/31/2017 showing the same damage noted to the container which evidenced that the damage being billed was pre-existing; however, the Equipment Provider did not acknowledge the outgate condition on the EIR as being the same as the damage captured at ingate.

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

The Equipment Provider responded to the claim by providing an email that was sent to the Motor Carrier on May 25, 2017, from their M&R/Lost/Stolen billing department that shows the invoice was originally sent to the Motor Carrier at the following email addresses: perdiem@oneilllogistics.com and joneill@oneilllogistics.com, which were the addresses on file within the UIIA subscriber record at the time of the billing and, also, the same address used by the Equipment Provider in the email communication, dated 7/19/17, that the Motor Carrier confirmed was received. The Equipment Provider believes that the invoice was billed in accordance with the UIIA, including Section E.3. as there is no requirement in the Agreement to provide photos upon outgate. In addition, the outgate facility does not have cameras at the gate.

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 noted that the Motor Carrier raised two issues regarding the charges being disputed in this case: 1) The first is that the Equipment Provider did not bill them within the time frame required by the UIIA; and 2) The second issue is that the damage was noted on the outgate interchange, and represents old damage.

As to issue 1, the Motor Carrier panel member stated that it is clear from the documentation that the Equipment Provider did invoice the Motor Carrier within the time frame required by the UIIA and noted that the Equipment Provider provided copies of the email messages sent to the Motor Carrier on May 25, 2017. The email addresses were confirmed. The Ocean Carrier panel member agreed that invoicing was timely in accordance with the Agreement.

As to Issue 2, the Ocean Carrier panel member argued in favor of the Equipment Provider stating that his position is not about specificity, but rather alignment based on the following observations regarding the interchange documentation:

The outgate has three codes	The ingate has three codes
1. Right Side Panel Bent – Usable 2. Left Side Panel Bent – Usable 3. Front Panel Bent - Usable	A. Left Whole/Panel Assembly/Bent B. Front Whole/Panel Assembly Bent C. Front Whole/Corner Post Assembly/Bent

The Ocean Carrier panel member in comparison of the outgate and ingate interchange documents noted that if A on the ingate EIR aligns with 2 (Left Side Panel Bent – Usable vs. Left Whole/Panel Assembly/Bent) on the outgate EIR and B on the ingate aligns with 3 on the outgate (Front Panel Bent – Usable vs. Front Whole/Panel Assembly/Bent), then these are quite similar in their specificity. The Ocean Carrier indicated that the fact that the entries left, which are 1 on the outgate EIR and C on the ingate EIR, which reads “Right Side Panel Bent – Usable and Front Whole/Corner Post Assembly/Bent” respectively does not add up, but not because one document is overly generic. Both contain specific information as to where the damage was found. Interchanges are typically clear in delineating between panels and corner posts. The Ocean Carrier panel member indicated that the Agreement states that the Equipment Provider must document damage invoices with evidence, which has been done in this case. The Motor Carrier panel member agreed with this assessment also finding in favor of the Equipment Provider.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

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

D. Equipment Interchange

2. Equipment Interchange Receipts

- a. At the time of Interchange, the Parties or their agents shall execute an Equipment Interchange Receipt and/or exchange an electronic receipt equivalent, which shall describe the Equipment and any Damage observable thereon at the time

of Interchange, reasonable Wear and Tear excepted. The physical condition of the Equipment may be described by either Party within the EIR or via Recorded Images taken at the time of Interchange. **[Revised 05/12/10]**

3. Equipment Condition

- a. Warranty: WHILE PARTIES MAKE NO EXPRESS OR IMPLIED WARRANTY AS TO THE FITNESS OF THE EQUIPMENT, THEY RECOGNIZE AND AFFIRM THEIR RESPONSIBILITIES UNDER THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS.
 - 1) 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. **[Revised 01/17/05]**
- d. Motor Carrier will Interchange the Equipment to the Provider or another Motor Carrier that is authorized for Interchange by that Provider, in the same condition, reasonable Wear and Tear excepted. **[06/13/16]**
 - 1) The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**
 - 2) Motor Carrier and Provider will not issue an invoice for repair items equal to or less than \$50 per unit per Interchange Period. Provider may, in its Addendum, adopt a different threshold amount as long as that amount is greater than \$50 and applies to both Motor Carrier and Provider. **[Revised 07/25/07]**

E. Equipment Use

- a. Motor Carrier shall pay to Provider the reasonable and customary costs to repair Damages done to Equipment during Motor Carrier's possession. **[Revised 09/01/09]**
 - 1) To be valid, invoices must detail the repairs done; include a copy of the actual repair bill upon which the invoice is based and include the factual documentation supporting the Provider's determination that the Motor Carrier is responsible. In instances where a copy of the actual repair bill is not available to Provider, documentation containing the repair vendor's name, repair date, location and a control number that ties the documentation to the invoice provided to the Motor Carrier is acceptable, in lieu of the actual repair bill. In the case of AGS gate the Equipment at the time the Motor Carrier to be charged both accepted and returned the Equipment. **[Revised 09/01/09]**
- c. Parties shall invoice repair costs no later than the following timeframes: If Parties are not invoiced within the established timeframes, the right of the Invoicing Party to recover such charges will be lost: **[Revised 01/26/15]**
 - 1) Standard Gate System (manned) or Interchange between Motor Carriers: Invoices for repair of Damages must be issued no later than 165 calendar days from the date of Interchange at the time the Damage was documented. **[Revised 06/13/16]**

- 2) AGS Gate System (unmanned): Invoices for repair of Damages must be issued no later than 120 calendar days from the date of Interchange at the time the Damage was documented.
- 3) Invoices for repairs made during the Interchange Period must be issued no later than 90 calendar days from the date of the repair. Provider may, in its Addendum, adopt a shorter billing timeframe, which is no less than 45 days, and applies to both the Motor Carrier and Provider. **[Revised 01/26/15]**
- 4) The above timeframes shall not apply with respect to any Equipment that has been placed on hold at the request of any of the Parties because the Equipment was involved in an incident that could give rise to a claim or litigation. The applicable timeframe shall begin to run from the date on which all Parties agree to release the Equipment for repair. In the event that the circumstances referred to in this situation arise and a hold is placed by Provider, upon receiving notice of the damage, the Provider will give notice to the interchanging MC that such damages have occurred and that a hold has been placed on the repair. Failure to give such notice within 45 days of the Equipment being placed on hold will void the right of the Provider to invoice for such repairs. **[Revised 08/26/13]**

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

CASE REVIEWED AND DECIDED BY:

FRED HUENNEKENS
Motor Carrier Member

ROBERT CANNIZZARO
Ocean Carrier Member