

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

In the Dispute Between)

UIIA MC)
Appellant, and)

Case Number: **20181227-1-XXXV-PD**

UIIA EP)
Respondent)

Date of Decision: 05/13/2019

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICES:

Invoice	Invoice #	Inv. Date	Facilities	Container	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	UST053917	10/2/18	WBCT/Yusen	KKFU8142782	9/12/18	9/28/18	10/2/18	10/16/18	10/22/18 to assign Case # 9	12/27/18
2	UST053912	10/2/18	WBCT/Yusen	KKFU7942013	9/6/18	9/27/18	10/2/18	10/16/18	10/22/18 to assign Case # 9	12/27/18
3	UST060995	10/16/18	WBCT/Yusen	TGCU0198852	9/6/18	9/27/18	10/16/18	10/30/2018 (sent week prior per email)		12/27/18
4	UST050745	9/25/18	Yusen/ITS	TCNU5895120	9/4/18	9/21/18	9/25/18	10/30/2018 (sent week prior per email)		12/27/18
5	UST070863	11/7/18	Yusen	TRLU8116360	10/12/18	10/30/18	11/7/18	11/7/18	11/8/18 to assign Case #930	12/27/18
6	UST070864	11/7/18	WBCT/Yusen	KKFU7671950	10/10/18	10/30/18	11/7/18	11/7/18	11/8/18 to assign Case #930	12/27/18
7	UST070865	11/7/18	Yusen	NYKU0766567	10/10/18	10/29/18	11/7/18	11/7/18	11/8/18 to assign Case #930	12/27/18
8	UST070866	11/7/18	Yusen	NYKU4709565	10/11/18	10/30/18	11/7/18	11/7/18	11/8/18 to assign Case #930	12/27/18
9	UST070867	11/7/18	Yusen	TGBU5299271	10/10/18	10/29/18	11/7/18	11/7/18	11/8/18 to assign Case #930	12/27/18
10	UST070868	11/7/18	Yusen/ITS	TCNU6182530	10/11/18	10/30/18	11/7/18	11/7/18	11/8/18 to assign Case #930	12/27/18
11	UST070869	11/7/18	Yusen/ITS	NYKU4108543	10/11/18	10/30/18	11/7/18	11/7/18	11/8/18 to assign Case #930	12/27/18
12	UST070870	11/7/18	WBCT/Yusen	TCNU6965562	10/10/18	10/30/18	11/7/18	11/7/18	11/8/18 to assign Case #930	12/27/18
13	UST070871	11/7/18	WBCT/Yusen	KKFU8030015	10/10/18	10/29/18	11/7/18	11/7/18	11/8/18 to assign Case #930	12/27/18
14	UST070873	11/7/18	WBCT/Yusen	TCLU8929696	10/10/18	10/29/18	11/7/18	11/7/18	11/8/18 to assign Case #930	12/27/18
15	UST070874	11/7/18	WBCT/Yusen	TCNU4967308	10/10/18	10/30/18	11/7/18	11/7/18	11/8/18 to assign Case #930	12/27/18
16	UST074786	11/15/18	Yusen	TGHU6226630	10/11/18	11/6/18	11/15/18	11/16/18	11/16/18 to assign Case #1291	12/27/18
17	UST074791	11/15/18	WBCT	KKFU7547657	10/17/18	11/7/18	11/15/18	11/16/18	11/16/18 to assign Case #1291	12/27/18
18	UST074811	11/15/18	WBCT/TraPac	NYKU5292054	10/17/18	11/7/18	11/15/18	11/16/18	11/16/18 to assign Case #1291	12/27/18
19	UST074846	11/15/18	WBCT/Yusen	FCIU9755409	10/12/18	11/6/18	11/15/18	11/16/18	11/16/18 to assign Case #1291	12/27/18
20	UST077195	11/20/18	WBCT/ConGlobal	TCLU7986496	10/17/18	11/12/18	11/20/18	11/20/18	11/21/2018 to assign Case #1396	12/27/18
21	UST077192	11/20/18	WBCT/ITS	TCLU6663987	10/17/18	11/14/18	11/20/18	11/20/18	11/21/2018 to assign Case #1396	12/27/18
22	UST080570	11/28/18	WBCT	TCNU6606876	10/17/18	11/22/18	11/28/18	12/12/18		12/27/18
23	UST083461	12/5/18	WBCT/Yusen	NYKU4223423	10/18/18	11/26/18	12/5/18	1/3/19		12/27/18
24	UST084551	12/6/18	WBCT/Yusen	TCLU6480395	10/18/18	11/26/18	12/6/18	1/3/19		12/27/18

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier's basis of dispute is Section E.1. of the UIIA. The Motor Carrier stated that they attempted to return the Provider's empty containers back to the facility, but were precluded from doing so due to restrictions in place at specific facilities on the given date/time and for the specific Equipment Provider. The restrictions ranged from the Equipment Provider reaching its daily limit of empties being returned at the facility for that day, facility not having appointments available for the return of the empties and the facility may have only been accepting dual transactions. Therefore, the Motor Carrier contacted the Equipment Provider multiple times requesting a valid equipment return location so that they could return the empty containers. When no return locations were available, the Motor Carrier had no choice but to put the equipment in storage. The Motor Carrier stated that when they called the Equipment Provider, they were assured that there would be return locations available soon. The Motor Carrier stated that this continued, and they now have 43 empties in storage. When the Motor Carrier was able to return the empties back to the terminal, they began receiving per diem bills from the Equipment Provider showing that the empties were returned late. The Motor Carrier feels that the Equipment Provider should not be able to charge per diem on empties containers that they were unable to return as the Equipment Provider did not provide an alternate return location in accordance with Section E.1.b. of the UIIA. When the Motor Carrier disputed the per diem invoices received, they indicated the Equipment Provider responded only with the assignment of a case number for the dispute. However, eventually the Equipment Provider suspended their interchange privileges. There were additional expenses incurred by the Motor Carrier for storage, chassis fees and driver charges that were included in the Motor Carrier's basis but are not part of this binding arbitration claim since these types of charges are not acceptable under the UIIA binding arbitration process.

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

The Equipment Provider responded to the claim stating "as anyone involved with drayage in Southern California is aware, terminals have moved to an appointment system model, and as a result prior planning is required. As evidenced in the supporting documentation, the Motor Carrier consistently attempted to make same day appointments and then demanded additional free days when no appointments were available or dual transactions were required on those days." Therefore, the Equipment Provider feels they made every effort to assist the Motor Carrier with providing viable return locations that were accepting their equipment and thus complied with the terms of the UIIA. In its response to the Motor Carrier's arbitration claim, the Equipment Provider has responded to each allegation made by the Motor Carrier in further detail. Consequently, the Equipment Provider believes the invoices are valid and should stand 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 noted that the Motor Carrier did not provide sufficient evidence to support their claims of not being able to ingate empties on a one-way transaction. In addition, the Motor Carrier did not clearly show communications regarding the specific empties in dispute. The Ocean Carrier panel member agreed adding the documentation provided by the Motor Carrier does not establish a case for non-return of the equipment with unit specific examples based on the per diem billings under dispute. Further, the panel noted that the reference to storage charges in this claim were not considered by the arbitration panel since this type of charge does not fall under the binding arbitration process afforded to UIIA participants.

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

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 5 location. Compensation for services rendered in these circumstances is outside the scope of this Agreement. **[Added 02/08/16]**

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

- f. Motor Carrier shall respond in writing to Provider's invoices within thirty (30) days, documenting with appropriate evidence its disagreement with any of the Provider's invoices it believes to be incorrect.

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

CASE REVIEWED AND DECIDED BY:

DAVE HENSAL
Motor Carrier Member

LEO IMPERIAL
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