

**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: **20200409-1-XXXR-MR-TR**

Date of Decision: **August 20, 2020**

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICES:

Invoice	Invoice #	Container #	Inv. Date	Facility	Outgated	Ingated	# of days billed after interchange	Date MC rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute	Notice of Intent Rec'd
1	DR000017565	GCEZ445947	3/11/20	Conley/Conley	11/22/19	12/2/19	100	3/11/20	4/9/20	4/9/20	4/9/20
2	DR000017566	DCNZ415892	3/11/20	GPA/GPA	11/23/19	12/9/19	93	3/11/20	4/9/20	4/9/20	
3	DR000017567	FLXZ414359	3/11/20	GPA/CGI ATL	12/3/19	12/16/19	86	3/11/20	4/9/20	4/9/20	
4	DR000018365	DCLZ408767	3/25/20	Conley/Conley	12/4/19	12/10/19	106	3/25/20	4/9/20	4/9/20	
5	DR000018403	POCZ401091	3/25/20	GPA/GPA	12/6/19	12/12/19	84	3/25/20	4/9/20	4/9/20	
6	DR000018375	EMCZ740177	3/25/20	GPA/Conley	12/16/19	1/6/20	79	3/25/20	4/9/20	4/9/20	

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier is basing its dispute on Section H, Exhibits B & C of the UIIA. The Motor Carrier stated that the Equipment Provider's third-party billing vendor, CCM, has been billing them for tube/flat repairs that the Motor Carrier feels should not be rebillable. The Motor Carrier believes that the tubes are the owner's responsibility in accordance with Exhibit B of the UIIA. The Motor Carrier stated that the invoices and documentation that CCM submitted shows there was no "damage" to the tire. The Motor Carrier states that Exhibit C of the UIIA covers the Motor Carrier's responsibility for repairs during the interchange period. Exhibit C specifically states that the Motor Carrier is responsible for slid flat damage to the tire and/or tube, run flat damage to the tire and/or tube, or a missing tire, tube, and rim. Therefore, the Motor Carrier believes that since the invoices CCM submitted are for flat tires and tube replacements that are not associated with a slid flat, run flat, or missing tire, tube or rim, the Motor Carrier is not responsible for the cost of repairs.

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

The Equipment Provider initially asked the chassis pool to respond on their behalf for this claim. The chassis pool responded stating that Motor Carriers are responsible for tire damage that occurs during the interchange period and provided the following information:

XPO – Atlanta Conley is a nonstop location. While SACP has repair vendors on site, this location does not stop an interchange. Some facts about the XPO ATL location:

- XPO creates an EIR upon entry
- All repairs to SACP units are submitted through SACP's chassismandr.com web portal and SACP pays the repair vendor directly. XPO is rebilled for the repairs so that SACP can be reimbursed for these flat tire repairs during the interchange.
- Any flat tire that is repaired as a result of tube failure is not noted as billable in the MandR system and would not be billed back to XPO.
- Photo documentation of the flat tires repaired during interchange are not provided at this location
- This process works in XPO's benefit as most repairs made during an interchange are paid upfront by the trucker and later submitted to SACP via the OTR process.
- The repair vendor will submit an invoice directly to XPO for any non-pool chassis repairs.
- SACP has since required the onsite repair vendor to get pre-approval from the terminal manager before making any repairs which is slowing the chassis repairs down.

The Equipment Provider also added as part of its response that although it paid for the use of the chassis associated with this dispute, paying for the chassis is not the same as interchanging the chassis. "Interchange" and "Provider" are defined terms in the UIIA and that in the present dispute, the Equipment Provider stated that they were neither the "Provider" nor the "Interchange" party for the chassis. The Equipment Provider indicated that this is consistent with the UIIA, which clearly contemplates that the Provider of the container may be different from the Provider of the chassis. Consequently, the Container EP is not the proper party for the arbitration of charges related to the chassis. This dispute would fall outside of the UIIA and should be handled under the Motor Carrier's direct interchange with the non-UIIA chassis provider (Flexi-Van Leasing and DCLI).

DECISION:

The panel carefully reviewed all documents and evidence submitted by the parties. Based upon this information, the panel's opinion is that the UIIA does not have jurisdiction to make a ruling on this case. The charges under arbitration are related to the chassis, which was interchanged under the Motor Carrier's direct interchange with a non-UIIA chassis provider (Flexi-Van Leasing and DCLI) so is outside the scope of the UIIA. Note on the date the interchange occurred, Flexi-Van Leasing was not an active Equipment Provider participant in the UIIA. Consequently, because the Container EP is not the interchange party for the chassis the UIIA provisions would not apply.

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:

Section B. Definition of Terms, Section B.21 Parties

Parties: The Provider Motor Carrier and/or Facility Operator who are signatories to this Agreement. **[Revised 02/24/06]**

Section B. Definition of Terms, Section B.24. Provider

Provider: The Party or Parties authorizing delivery and/or receipt of physical possession of Equipment with a Motor Carrier. The Provider of the Chassis and Container may not necessarily be the same Party. **[Revised 06/08/15]**

Exhibit D., Item D.1.

“This process is applicable for disputed transactions relating to Per Diem, maintenance and repair or Equipment use/rental charges between Providers and Users (Motor Carriers) of Equipment who are signatories to the Uniform Intermodal Interchange and Facilities Access Agreement (UIIA). **[Revised 05/01/17]**

DECISION: The panel unanimously finds that the UIIA does not have jurisdiction to make a ruling on this case. The interchange associated with the disputed charges is between the Motor Carrier and the non-UIIA chassis provider. Consequently, the dispute of the charges should be addressed under the Motor Carrier’s direct interchange with the chassis provider, which is outside the scope of the UIIA.

CASE REVIEWED AND DECIDED BY:

DAVE HENSAL
Motor Carrier Panel Member

LEONARD IMPERIAL
Ocean Carrier Panel 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: **20191204-44-XXXP-MR-TR**

Date of Decision: 02/18/2020

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICES:

Invoice	Invoice #	Equipment #	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	1800111549	TSFZ563633	10/24/19	CP (non-AGS)/UP (AGS)	6/10/19	6/10/19	10/24/19	11/13/19	11/20/19	12/4/19
2	1800111547	NSPZ155362	10/24/19	CP (non-AGS)/UP (AGS)	6/24/19	6/24/19	10/24/19	11/13/19	11/20/19	
3	1800111552	TSXZ563857	10/24/19	CP (non-AGS)/UP (AGS)	8/4/19	8/4/19	10/24/19	11/13/19	11/20/19	
4	1800111553	TSFZ564206	10/24/19	CP (non-AGS)/UP (AGS)	7/3/19	7/3/19	10/24/19	11/13/19	11/20/19	
5	1800111554	TSFZ49612	10/24/19	CP (non-AGS)/UP (AGS)	6/22/19	6/22/19	10/24/19	11/13/19	11/20/19	
6	1800111551	TSXZ903192	10/24/19	CP (non-AGS)/UP (AGS)	6/7/19	6/7/19	10/24/19	11/13/19	11/20/19	
7	1800111550	TSXZ991167	10/24/19	CP (non-AGS)/UP (AGS)	6/22/19	6/22/19	10/24/19	11/13/19	11/20/19	
8	1800111546	NSPZ146390	10/24/19	CP (non-AGS)/UP (AGS)	8/13/19	8/13/19	10/24/19	11/13/19	11/20/19	

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier's basis of the dispute are related to Section D.2.a., D.3.d. and E.3.a.(2) of the UIIA. The Motor Carrier states that these were all crosstown moves from CP Schiller Park (non-AGS facility) to UP Global 1 (AGS facility). The Motor Carrier disputed the charges with the Equipment Provider, which included providing previous J1s and repair bills from other railroads that the Motor Carrier believes proves the damage being billed was pre-existing. However, the Equipment Provider did not accept or agree that the damage was pre-existing. The Motor Carrier feels that they returned the equipment in the same condition, reasonable wear and tear expected and believes that they are not responsible for the charges based on D.3.d.of the UIIA.

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

The Equipment Provider did not respond to the claim but did respond to the Motor Carrier's initial dispute stating that their process to investigate damages is as follows: 1) When they receive an invoice from another railroad for any type of damage, they check the outgate J1 for damages notated by the driver, since the drivers are responsible for notating their own damage, 2) If nothing is noted on the outgate J1, then the bill gets sent out to the specific trucking company that outgated the unit. Therefore, the Equipment Provider believes that they followed these processes and that the invoices are valid as billed.

DECISION:

After careful review of all documents and the evidence submitted by the parties, the modal panel members unanimously found as follows:

- Invoice 18001111549 - Both the Rail Carrier panel member and Motor Carrier panel member find in favor of the Equipment Provider. Both panel members agreed noting that the Motor Carrier claims the damage was pre-existing based on a gate receipt from an interchange 63 days prior. A determination cannot be made off of the prior gate receipt when A) this much time has elapsed, B) no photos were provided to compare damage, and C) no repair history was provided to determine if this was new or existing damage.
- Invoice 180011547 - Both the Rail Carrier panel member and Motor Carrier panel member find in favor of the Equipment Provider. Both panel members agreed noting the Motor Carrier claims the damage was pre-existing based off of an AGS photo from an interchange 3 days prior. However, the photo provided does not include required information in the image (UIIA Agreement B. 25. Recorded Images: A date and time stamped electronic image, which depicts the physical condition of the equipment.). In addition, there were no photos of the ingate interchange to the UP on 6/24 for comparison.
- Invoice 1800111552 - Both the Rail Carrier panel member and Motor Carrier panel member find in favor of the Equipment Provider. Both panel members agreed noting the Motor Carrier claims the damage was pre-existing based on a gate receipt from an interchange 87 days prior. A determination cannot be made off of the prior gate receipt when A) this much time has elapsed, B) no photos were provided to compare damage, and C) no repair history was provided to determine if this was new or existing damage.
- Invoice 1800111553 - Both the Rail Carrier panel member and Motor Carrier panel member find in favor of the Motor Carrier. Both panel members agree that the additional photos requested, and provided, prove pre-existing damage.

- Invoice 1800111554 - Both the Rail Carrier panel member and Motor Carrier panel member find in favor of the Equipment Provider. Both panel members agreed noting the Motor Carrier claims the damage was pre-existing based off of an AGS photo from an interchange 155 days prior. The photo provided was inconclusive of damage and an ingate photo to the UP on 6/22/19 was not provided for comparison.
- Invoice 1800111551 - Both the Rail Carrier panel member and Motor Carrier panel member find in favor of the Equipment Provider. Both panel members agreed noting the Motor Carrier claims the damage was pre-existing based off of an AGS photo from an interchange 6 days prior. However, the photo provided was inconclusive of damage and does not include required information (UIIA Agreement B. 25. Recorded Images: A date and time stamped electronic image, which depicts the physical condition of the equipment.)
- Invoice 1800111550 - Both the Rail Carrier panel member and Motor Carrier panel member find in favor of the Equipment Provider. Both panel members agreed the additional photos requested, and provided, do not prove pre-existing damage.
- Invoice 1800111546 - Both the Rail Carrier panel member and Motor Carrier panel member find in favor of the Equipment Provider. Both panel members agreed noting an ingate photo was provided on an interchange 81 days prior. The photo provided is inconclusive of damage and there was not a photo provided from the ingate to the UP on 8/13/19 for comparison.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (May 22, 2019) to make its decision:

B. Definition of Terms

25. Recorded Image: A date and time stamped electronic image, which depicts the physical condition of the Equipment. **[Revised 04/11/07]**

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]**

D. Equipment Condition

3.
 - e. 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.

E. Equipment Use

3. Damage to Equipment

- 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]**
 - 2) 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 a gate transaction using Recorded Images such documentation must include images depicting the condition of the Equipment at the time of that Interchange. **[Revised 10/01/18]**

DECISION: Invoices (1) 1800111549, (2) 1800111547, (3) 1800111552, (5) 1800111554, (6) 1800111551, (7) 1800111550 and (8) 1800111546 - The panel unanimously finds in favor of the Equipment Provider.

Invoice (4) 1800111553 - The panel unanimously finds in favor of the Motor Carrier.

CASE REVIEWED AND DECIDED BY:

TIM MOORE
Rail Carrier Modal Panel Member

CHRIS GILTZ
Motor Carrier Modal Panel Member