

UNIFORM INTERMODAL INTERCHANGE AGREEMENT

DISPUTE RESOLUTION PANEL

In the Dispute Between)	
)	Case 20090223-1-XXXL-MR-TR
UIIA Motor Carrier)	
Appellant, and)	DECISION
)	April 17, 2009
UIIA Equipment Provider)	
Respondent.)	

FACTS: Motor Carrier (MC) invoiced Equipment Provider (EP) on four separate invoices for tire replacements done while in MC possession.

MC invoiced \$00.00 on Invoice T004313 for tire replacement. MC paid \$00.00 for the replacement. EP paid \$00.00 to MC for invoice deducting \$00.00 per their Addenda. The tire casing receipt shows "other" as the reason for replacement.

MC invoiced \$00.00 on Invoice T004396 for tire replacement. MC paid \$00.00 for the replacement. EP declines payment because tire was not returned. Casing receipt shows no tire was returned.

MC invoiced \$00.00 on Invoice T004459 for tire replacement. MC paid \$00.00 for tire replacement. EP paid \$00.00 to MC deducting \$00.00 per their Addenda. The tire casing receipt shows the tire was returned but does not show the cause for failure.

MC invoiced \$00.00 on Invoice T004475 for tire replacement. MC did the work in their own shop and showed an invoice for \$00.00 EP declines payment because equipment was outgated on behalf of another steamship line and MC invoiced wrong EP.

BASIS OF CLAIM: MC asserts that MC replaced failed tires on EP equipment and followed all procedures required to seek reimbursement but EP refuses to pay based on lack of prior authorization for tire replacement and no receipt of original documents.

DISCUSSION: EP Addendum Section I.3.(a) and (b) requiring the MC to absorb the first \$00.00 of repairs caused by the ordinary use of the equipment are in conflict with UIIA Section E.4.b. which makes the EP responsible for the reasonable and customary charges for normal wear and tear items. EP Addendum Section V.1.1.2 limiting the amount of reimbursement for tire replacements to \$00.00 is in conflict with UIIA Section E.4.b. when the reasonable and customary cost to replace a tire exceeds \$00.00.

MC failed to qualify for reimbursement when the tire was not returned to EP.

MC is not entitled to reimbursement when the wrong EP is invoiced.

DECISION: Invoice T004313 panel unanimously finds in favor of the MC. EP is to reimburse MC the reasonable and customary cost of the tire replacement of \$00.00. An additional \$00.00 is owed by EP on this invoice.

Invoice T004459 panel unanimously finds in favor of the MC. EP is to reimburse MC the reasonable and customary cost of the tire replacement of \$00.00. An additional \$00.00 is owed by EP on this invoice.

Invoice T004396 panel unanimously finds in favor of the EP. No tire was received so EP is not responsible for this invoice in the amount of \$00.00.

Invoice T004475 panel unanimously finds in favor of the EP. MC should invoice the correct EP.

DAVID MANNING
Motor Carrier Member

PATRICK VALENTINE
Water Carrier Member

UNIFORM INTERMODAL INTERCHANGE AGREEMENT

DISPUTE RESOLUTION PANEL

In the Dispute Between)	
)	Case: 20090803-2-XXXL-MR-TR
UIIA Motor Carrier)	
Appellant, and)	DECISION
)	September 28, 2009
UIIA Equipment Provider)	
Respondent.)	

FACTS: Motor Carrier (MC) invoiced Equipment Provider (EP) for tire replacement. MC replaced failed tires on EP equipment and seeks reimbursement for Five Invoices totaling \$00.00.

BASIS OF CLAIM: The MC states that the replacements were due to tire failure, that proper documentation and/or return of carcasses support the tendering of the invoices, and that EP has failed to pay in a timely manner.

DISCUSSION: The DRP reviewed the documents provided by the EP and MC. The subject invoices T004861 and T004656 and supporting documentation were examined and it was determined that they were correct and properly documented and as such were the responsibility of the EP (E.4.b, Tires).

T004931 was disputed by the EP because they determined that the tire had been damaged by impact damage to the sidewall. Under EP addendum clause V.1.2, the EP states that: Reimbursement will be approved based upon reason for tire failure, as determined by Provider. Although MC contends that tread separation was the cause of failure, the examination upon return by the EP indicated otherwise.

T004954 and T004845 were disputed by the EP on basis that the documentation presented by the MC failed to provide reasons for replacement. A review of the documentation presented by the MC does not indicate reasons for failure. In the case of T004845 the gate in TIR indicates that a substandard tire had been provided as a replacement. Under EP addendum clause V.1.2 states: In the event of a tire failure while equipment is in the care, custody and/or control of Motor Carrier, Motor Carrier shall make all repairs at Motor Carrier's expense. The replacement tire will be of equal size, type and quality. Based on these considerations it appears that the MC failed to meet the burden of proof required to tender a valid invoice.

DECISION: The panel unanimously finds in favor of the MC in the matter of Invoice T004861 and T004656 since supporting documentation demonstrates that replacement costs were valid and in accordance with Section E.4.b. .

Invoice T004931 is determined in the EP's favor, based on their addendum language and the documentation available to the Panel.

The panel unanimously finds in favor of the EP in the matter of Invoices T004954 and T004845, based on insufficient documentation of reason for replacement.

The panel unanimously finds that the subject invoices T004861 and T004656 in the amount of \$00.00 are due to the Motor Carrier.

The panel unanimously finds that the invoices T004845, T004931, and T004954 in the amount of \$00.00 are not due to the MC and the EP is not responsible for payment.

The Panel further determines that the costs for this Appeal shall be borne jointly by the MC and the EP.

DAVID MANNING
Motor Carrier Member

PATRICK VALENTINE
Water Carrier Member

DISPUTE RESOLUTION PANEL REVIEW AND DECISION

Date of Decision: March 19, 2010

Jeff Lang, Motor Carrier Member

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: 20100405-9-XXXL-MR-TR
Appellant, and)	
)	Date: October 7, 2010
UIIA Equipment Provider)	
Respondent)	

FACTS: Motor Carrier (MC) out-gated the unit at a BNSF, Elwood, IL facility on 12/24/2009 and in-gated the unit at the Integrated Industries, Channahon, IL terminal on 12/30/2009. Flexi-Van Leasing, Inc. invoiced the MC on behalf of the Equipment Provider (EP) on one invoice for two “slid flat” tires after the equipment was terminated at the Integrated Industries facility.

Invoice 855001062A, in the amount of \$00.00 indicated two “slid flat tires on left inside front”. The out-gate EIR from the BNSF rail facility indicated no damage and stated: inspection – Photographic Inspection (photo was provided for review). The in-gate EIR indicated the following: LF Lock Pin Handle Bent (straighten), 1-Tri-Mrkr Lt. B/Out, Lic. Plate Lt. Broke assembly (replace), RR Mrkr Lt. B/Out (replace), RF Lock Pin Handle Bent (straighten), Tire LIF Slid Flat (1/32)-6/32, Tire LIF Slid Flat (1/32)-8/32. The following was reported on the repair vendor invoice “Twist lock handle front bent, tire left inside front slid flat, tire left inside front slid flat, marker light assy-seal beam rear burned out, license plate light assy-seal rear broken”.

ISSUE: MC asserts that the invoice only verified the cost of labor and did not include the cost of the tires. The MC also states that the photo inspection submitted from out-gate does not verify that the damage was not previously present and Flexi-Van did not respond to their dispute within the required timeframe. Flexi-Van responded on behalf of the EP and stated that the repair vendor’s invoice to Flexi-Van Leasing is their electronic billing system that does not show the material amounts of the tires because Flexi-Van is buying the tires and supplying them to the vendor for use on the EP’s chassis.

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties. Under provision D. 2. a. of the UIIA (November 18, 2009), if the damage on the invoice was present before the MC took possession of the equipment, it was the MC’s duty to describe such damage on the out-gate EIR. The damage invoiced by the EP was not listed on the out-gate EIR. “Slid flat tires on left inside front cut” was noted on the in-gate EIR. Therefore, under UIIA provision D.4.d., the MC is responsible for the damaged invoiced by the EP. However, the panel found that the EP Invoice 855001062A charged twice for the same tire repair. Therefore, the MC is responsible for the amount of the invoice, minus \$00.00, the cost of one tire repair.

The MC also claims that the EP failed to respond to the MC’s initial dispute of this invoice. The panel makes no factual finding on this issue and decides that this issue would not affect their finding on the validity of the EP’s invoice.

UIIA PROVISIONS RELIED UPON BY DISPUTE RESOLUTION PANEL:

The panel relied upon the following provisions from the UIIA (November 18, 2009) 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 09/01/09]**”

D. Equipment Interchange... 4. Tires

“a. Repair of Damage to tires during Motor’ Carrier’s possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[REVISED 09/01/09]**”

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

Case Reviewed and Decided by:

JEFF LANG
Motor Carrier

PATRICK VALENTINE
Water Carrier

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

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Case Number: **20130709-16-XXXI-MR-TR**

Date of Decision: 09/09/2013

UNDISPUTED FACTS: The Equipment Provider (EP) send the Motor Carrier (MC) Maintenance & Repair invoice number 306624, dated 05/28/2013, in the amount of \$00.00 showing the following: Job Codes: 1115-Bias Tire/5686-Service Call and 5688-Dispatch Fee, Cond: 3-Replace/7-Labor Only (listed twice), Defect: 13-Run Flat/32-Per Contract (listed twice), and Loc: RO, C (listed twice).

The out-gate EIR provided by the MC was an AGS facility. The MC provided a Proof of Delivery (POD) document showing that the MC dropped the equipment at the customer in Compton, California. Date/time stamped images from mobile repair vendor, Interstar, of the tire are provided for review. There was no official in-gate document provided by the MC, only a POD.

ISSUE: The MC is declining the invoice stating that there is no backup provided to prove there was ever a service call or dispatch fee as billed. The MC argues that the bias tire shown in the images lying on the ground is not proof that this tire was ever in the control of the MC. The MC states that they terminated the unit for the Hub Group on 04/15/2013. The MC is basing their dispute on Section E.3.a.(1).

The EP responded to the MCs dispute stating that the repair for the damaged tire due to run flat condition occurred during the MCs interchange period. The EP states the MC did not provide adequate supporting information to demonstrate that they had terminated the equipment at an authorized location to absolve their responsibilities under the UIIA. The EP feels that they did provide adequate supporting information to justify the invoice and therefore, the invoice should stand. The EP is declining the MC's dispute per Sections E.4.a & Exhibit C of the UIIA and Section 7.B. of the EP's addendum to the UIIA.

DISCUSSION:

The panel finds that under the UIIA Definition of "Interchange Period," the MC had possession of the equipment on the date of the road call and tire repair. There was no official equipment interchange documentation as defined under Section B.13 of the UIIA to evidence that the MC terminated the unit with a clean in-gate. Under UIIA section E.4.a., the MC has sole responsibility for the repair of damage to tires during the interchange period.

UIIA PROVISIONS RELIED UPON BY DISPUTE RESOLUTION PANEL:

B. Definition of Terms

13. Equipment Interchange Receipt (EIR): A document confirming the interchange of Equipment between the Parties to this Agreement, or their agents. 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.

17. Interchange Period: The period, commencing upon Interchange to Motor Carrier and concluding upon Interchange to Provider.

E. Damage to Equipment

4. Tires

a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**

DECISION: **The panel finds in favor of the EP.**

CASE REVIEWED AND DECIDED BY:

Robert Curry
Motor Carrier Representative

James D. Fitzgerald
Rail Carrier Representative

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: **20150813-21-XXXI-MR-TR**

Date of Decision: 02/09/2016

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICE:

Inv.	Invoice #	Container #	Inv. Date	Amount	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	275147363	UPHZ132914	6/23/15	00.00	UP – LA/UP – LA	4/2/15	4/7/15	6/23/15	7/6/15	8/3/15	8/13/15

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier's basis of dispute is Sections D.2 and E.4.b. of the UIIA. The Motor Carrier is disputing the invoice due to lack of backup documentation provided by the Equipment Provider to support the charges billed. The Motor Carrier stated that the Equipment Provider did not provide any images at the time of interchange showing that the damage was the Motor Carrier's responsibility. The EP's decline of the Motor Carrier's dispute stated that the dispute was denied and that in gate photos provides support of slid flat tire damage, however the Motor Carrier states that no ingate photos were provided. The Motor Carrier also stated that the unit was ingated on April 7, 2015, but the repairs were not made until April 15, 2015. The Motor Carrier noted that after ingate, the container was loaded on the train for outbound destination. The Motor Carrier believes the chassis was used by the Equipment Provider's hostlers to spot and pull for train loading and departure.

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

The Equipment Provider responded stating the investigation shows that the chassis went out with no damage evident on the tires, and returned with the left outside front tire showing sidewall damage. The Equipment Provider believes the evidence is indisputable and stated the images are clear. The Equipment Provider states that the images are available for the Motor Carrier to retrieve from its image library. The Equipment Provider notes that the timeframe for invoicing was met and that the invoice for tire damage is accurate and should be upheld.

DISCUSSION:

After careful review of all documents and the evidence submitted by the parties, the panel finds in favor of the Equipment Provider. The Motor Carrier panel member states that the AGS clearly shows the chassis number in the photo of the damaged tire. The Motor panel member notes that there is an apparent major cut in the tire same side, same tire at ingate. The Rail Carrier panel member noted that the outgate AGS and tire images on April 2, 2015, clearly show that the chassis departed the facility without the side wall damage to the left outside front tire. The subsequent ingate AGS and tire images on April 7, 2015, provide visibility to cut side wall damage on the left outside front tire at time of ingate.

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:

- 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. 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]
 - 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

4. Tires

- a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**

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

CASE REVIEWED AND DECIDED BY:

KEVIN LHOTAK
Motor Carrier Member

CHAD PETERSON
Rail Carrier Member

In the Dispute Between

Case Number: **20150924-18-XXXP-MR-TR**

Date of Decision: 02/09/2016

	Invoice #	Chassis #	Inv. Date	Amount	Facility Outgate/Ingate	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	276039677	LSFZ133653	8/11/15	\$0.00	CSX Bedford Park/UP Global II	5/28/15	5/28/15	8/11/15	8/13/15	9/11/15	9/24/15
2	276105702	LSFZ534958	8/14/15	\$0.00	CP Bensenville/UP Global III	8/3/15	8/3/15	8/14/15	8/17/15	9/15/15	9/24/15

The Motor Carrier's basis of dispute is Sections D.2.a and D.3.d of the UIIA for slid flat tire damage invoices. The Motor Carrier stated that both invoices involved cross-town movements and reports the equipment was in the Motor Carrier's possession for less than one (1) hour. Therefore, the Motor Carrier believes any damage would be reasonable wear and tear to the unit. The Motor Carrier argues that close up photos of the tires provided by the Equipment Provider do not provide proof (date, time, unit number, etc.) that the chassis shown in the photos are the actual chassis in question for either invoice. The Motor Carrier believes that if there was damage at the ingate, the CCIB would inspect the tire damage and the Equipment Provider would then report the damage back to the origin railroad. The Motor Carrier believes they returned the units to the Equipment Provider in the same condition as the equipment was received, reasonable wear and tear excepted, in accordance with the UIIA.

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

The Equipment Provider responded by stating they believe the photographic evidence provided to the Motor Carrier supports the slid flat tire damage billing for both invoices. The Equipment Provider also stated that it was the Motor Carrier's responsibility to make note of any tire damage at the time the equipment was outgated on the Equipment Interchange Report ("EIR"). No damage was reported on the EIR.

The Equipment Provider responded to the Motor Carrier's comments as follows:

- Photo identification – The Equipment Provider stated that the date, time, and visit ID were shown on the images provided.
- Damage/Inspection - The Equipment Provider stated that damage would be billed back to the origin rail in the event the Motor Carrier provided proof of the same damage at the time of outgate. The Equipment Provider reports that no such documentation was provided for either invoice.
- Proof of measurement 4/32 versus 2/32 – The Equipment Provider states that the photographic images clearly shows the tread groove was smooth in the slid flat area indicating less than 2/32nds of an inch tread.

For the reasons stated above, the Equipment Provider believes the Motor Carrier is responsible for the charges as billed.

DISCUSSION:

After careful review of all documents and the evidence submitted by the parties, the panel rules as follows:

Invoice 1 (276039677) – The panel finds in favor of the Equipment Provider stating that the invoice was issued to the Motor Carrier for slid flat tire damage in accordance with the Equipment Provider's addendum and the UIIA. The Motor Carrier did not provide any evidence to the contrary. In addition, the Motor Carrier argued that their driver was on public roads for only the limited window required to perform a crosstown drayage move which they believe made it acceptable for their driver to either (a) not complete the pre-trip inspection required by FMCSA regulations and the UIIA, or (b) elect to operate a chassis with a tire that has an out-of-service condition under FMCSA regulations. In either case, the Motor Carrier failed to meet its obligations under the UIIA to follow FMCSA regulations. The panel does not believe the Motor Carrier provided sufficient evidence to support its case for this invoice.

Invoice 2 (276105702) - The panel finds in favor of the Motor Carrier stating that it found insufficient documentation of slid flat tire damage in the photographs provided by the Equipment Provider.

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:

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. 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]**
 - 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

4. Tires

- a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**

DECISION: The panel unanimously finds in favor of the Motor Carrier in the amount of \$00.00 and in favor of the Equipment Provider in the amount of \$00.00.

CASE REVIEWED AND DECIDED BY:

CLIFF CREECH
Rail Carrier Member

JEFFREY LANG
Motor Carrier Member

In the Dispute Between

Case Number: **20151015-20-XXXP-MR-TR**

Date of Decision: 02/09/2016

Invoice	Invoice #	Container #	Inv. Date	Amount	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	276343911	TSXZ990518	8/27/15	\$00.00	NS/UP	8/12/12	8/12/15	8/27/15	9/4/15	10/2/15	10/15/15

The Motor Carrier's basis of dispute is Sections D.2.a and D.3.d of the UIIA. The Motor Carrier stated that this was a cross-town move dispatched to them by NS from NS 47th Street to UP/Global 2. The Motor Carrier reported that the Equipment Provider provided close up images of the tire, but stated there is no date, time, unit number, etc. that proves the photo is the actual chassis in question. The Motor Carrier believes that if there was damage at the ingate, the CCIB would inspect the tire damage and EP would then J2 the damage back to the origin railroad. The Motor Carrier also believes that because the unit was in Motor Carrier's possession for 48 minutes and was a cross-town move, there would be reasonable wear and tear to the unit.

The Equipment Provider responded to the claim stating that they have reviewed the facts of the case and determined that the invoice should be upheld on the basis that the outgate EIR from NS 47th Street showed a clean outgate with no damage notations. The ingate EIR and recorded images clearly show damage to the tire. The Equipment Provider responded to the Motor Carrier's comments as follows:

- 1 – Motor Carrier claims these should be billed back to NS

Equipment Provider's response – Nowhere in the UIIA does it provide a rebill path to another party. EP provided documentation of the previous outgate from UP (which was clean) and the ingate to UP (which had a destroyed tire). The Motor Carrier provided additional documentation of an outgate from NS, which is permissible. If the outgate from the NS showed damage similar to the damage visible at ingate, then the motor carrier would have been relieved from the invoice. Per UIIA Section D.3.d, the Motor Carrier is to return the equipment to the Provider in the same condition, reasonable wear and tear excepted. This was not the case here. The Motor Carrier returned the equipment with damage. Additionally, UIIA Section E.4.a. states "Repair of damage to tires during the Motor Carrier's possession is the sole responsibility of Motor Carrier". In addition, UIIA Exhibit C states, "Motor Carrier responsibility during the interchange period includes Run Flat damage to tire and/or tube."

- 2 – Motor Carrier's concern re: Damage at ingate - CCIB would inspect - Motor Carrier noted that there was no proof of measurement (4/32 vs 2/32)

Equipment Provider's response: This invoice is not for a slid flat damage to the tire. This invoice is for run flat damage that destroyed the tire. As evidenced by the recorded images, there is no place to take tread measurement because there is no tread left, and not much tire left either. This claim is without merit.

The Equipment Provider believes the photographic evidence it provided to the Motor Carrier supports the run flat tire damage billing. If there was tire damage at the time the equipment was outgated it was the Motor Carrier's responsibility to notate this damage on the EIR, which it did not do.

DISCUSSION:

After careful review of all documents and the evidence submitted by the parties, the panel finds in favor of the Equipment Provider. The Motor Carrier panel member noted that the pictures provided did show a chassis number associated with the damage and stated it appears the outgate drayage carrier did not properly inspect the equipment prior to outgating as the outbound J1 has no defects listed and the ingate AGS shows pictures of damage. The Motor Carrier panel member stated that while it appears the tire may have been damaged when it was picked up, without notation on the J1 or repairing it before leaving the outgate facility, the Motor Carrier took responsibility for this cost.

The Rail Carrier panel member observed that the Motor Carrier is required, by law, to perform a pre-trip inspection per the requirements of FMCSA. Had this damage been present when the Motor Carrier outgated from the origin facility, it should have been identified during the pre-trip inspection and documented on the outgate interchange receipt or repaired prior to taking over the road if a roadability defect. The Rail panel member notes that the alternate scenario is that the damage occurred over the road, between outgate and ingate. In either case, the Motor Carrier is responsible for the damage.

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:

- 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. 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]**
 - 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
 - 4. Tires
 - a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**

DECISION: The panel unanimously finds in favor of the Equipment Provider in the amount of \$171.75.

CASE REVIEWED AND DECIDED BY:

KEVIN LHOTAK
Motor Carrier Member

CHAD PETERSON
Rail Carrier Member

provided additional documentation of an outgate from NS, which is permissible. Had the outgate from the NS showed damage similar to the damage visible at ingate, then the Motor Carrier would have been relieved from the invoice. Per UIIA Section D.3.d - The Motor Carrier is to return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted. This was not the case here; the Motor Carrier returned the equipment with damage. Additionally, under UIIA Section E.4.a, repair of damage to tires during the Motor Carrier's possession is the sole responsibility of Motor Carrier. In addition, under UIIA Exhibit C, the Motor Carrier responsibility during the interchange period includes Run Flat damage to tire and/or tube.

- 2 – Motor Carrier's claims there is no date, time or equipment identification information indicating the actual unit.

Equipment Provider's response - As evidenced by the images, the chassis is "binded" to the container in our AGS system and cannot be altered. The units are matched on the basis of a visit "ID" and this provides positive correlation between the chassis and the container. Also, in the IEE system image the chassis ID is embedded into the image along with the date and time of the transaction. This claim is without merit.

The Equipment Provider believes the invoice should stand as billed.

DISCUSSION:

After careful review of all documents and the evidence submitted by the parties, the panel finds in favor of the Equipment Provider. The Motor Carrier panel member stated that the UIIA does not include any exceptions from reporting damage prior to interchange based on the length or type of movement involving the equipment and, further, that the time that the equipment was in the possession of the Motor Carrier, or the fact that this was a cross town move, is not material to the damage issue. The Motor panel member noted that Section D.2.a of the UIIA requires the Motor Carrier to describe any observable damage to the equipment on the outgate interchange; the outgate interchange does not have any notation of tire damage. The Motor Carrier panel member stated that the ingate AGS images provided by the Equipment Provider clearly showed damage to the RFI tire, and the date and time of the transaction were embedded in the images.

The Rail Carrier panel member stated that it is the responsibility of the Motor Carrier to perform a pre-trip inspection per the requirement of FMCSA and agreed that the length of time and/or type of move is irrelevant. The Rail panel member stated that the ingate images clearly show the damaged tire, so the only scenario that could have occurred is the tire was damaged between outgate and ingate while in possession of the Motor Carrier.

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:

- 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. 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]**
 - 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
 - 4. Tires
 - a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**

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

CASE REVIEWED AND DECIDED BY:

FRED HUENNEKENS
Motor Carrier Member

TIM WILLIAMS
Rail Carrier Member

In the Dispute Between

UIIA MC,
Appellant, and

UIIA EP,
Respondent

Case Number: **20161122-25-XXI-MR-TR**

Date of Decision: 02/03/2017

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	283494770	UPHZ150255	10/18/16	UP-LA/UP-LA	6/28/16	7/6/16	10/18/16	10/20/16	11/16/16	11/22/16

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier's basis of dispute is in regards to Section E.3.a. (1) and Section E.4.a. of the UIIA. The Motor Carrier stated it ingated the unit with a tire replacement on the RIF at the Motor Carrier's expense as required under Section E.4.a. of the UIIA, which states, "Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use." The Motor Carrier indicated that the tire was not lost or missing as stated on the Equipment Provider's billing. The Motor Carrier noted that the Equipment Provider indicated that the tire that was replaced was not the same as the tire the equipment left the ramp with and that this was clearly shown in the video provided. The Motor Carrier argues that it is not possible with the system in place at the ramp to identify a tire's DOT number. Therefore, the Motor Carrier does not believe the factual documentation submitted by the Equipment Provider substantiates its responsibility for the billing.

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

The Equipment Provider responded to the claim stating that the Motor Carrier agreed that the tires on the chassis at the time of ingate were different from those that were on the unit at outgate. In addition, the Motor Carrier did not request any pre-authorization from the Equipment Provider nor from the Equipment Provider's preferred repair vendor; therefore ignoring the requirements set forth in Exhibit 2 of the Equipment Provider's UIIA addendum.

In addition, the Equipment Provider had the following comments in regards to the Motor Carrier's dispute:

- The specific damage to the tire which caused the need for replacement is unknown. Also, the Motor Carrier did not consult with the Equipment Provider for direction regarding Emergency Roadside Repairs and repaired the tire on their own. Any repairs performed on the Equipment Provider's chassis that do not meet its generally accepted repair standard will be corrected and rebilled to the Motor Carrier.
- In the case of tires, the Equipment Provider has a specific tire standard that its chassis are equipped with. The standard selected has undergone rigorous independent testing, and is the best suited tire for the Equipment Provider's chassis. For a radial chassis, the Equipment Provider specifically requires a Bridgestone 11R22.5. The chassis involved in this claim was returned with what based on the Equipment Provider's standards were sub-standard tires. The Equipment Provider corrected the condition and rebilled the Motor Carrier consistent with the language in Exhibit 2, Paragraph 2.A. of its UIIA addendum. The Equipment Provider noted that had the Motor Carrier independently repaired and equipped the chassis with the proper tires, there would be no need for this DRP claim.

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 he does not believe that the Motor Carrier should be charged for the tires it replaced based upon the following:

- The Motor Carrier did not ask the Equipment Provider to pay for the repair, so technically based on how the opening sentence in Exhibit 2 of the Equipment Provider's addendum currently reads the Motor Carrier is only required to call the Equipment Provider's Emergency Road Service Number for repairs if it seeks to be reimbursed by the Equipment Provider for the repair.
- There is no specific information or guidelines in Exhibit 2 of the Equipment Provider's addendum about what type of tires must be used for repairs. The addendum does not specify the Motor Carrier must only use a Bridgestone 11R22.5 for tire repairs.
- The language in Exhibit 2, Section 2.A. of the Equipment Provider's addendum regarding repairs performed by the Motor Carrier that the Equipment Provider deems improper is extremely vague. Based on the current language, there are no specific guidelines on how the Equipment Provider determines that a repair is improper, which is not reasonable.

The Rail Carrier panel member also found in favor of the Motor Carrier for the same reasons listed above. The Rail Carrier panel member commented that while he appreciates the intent of the Equipment Provider being able to know what damages/repairs are done to its chassis, the panel member believes the language in Exhibit 2, Paragraph 2.a. of the Equipment Provider's addendum is vague. The Rail Carrier panel member also indicated that the Equipment Provider should clarify in its addendum the definition of an "improper repair" and that if there are specific tire replacement requirements that this information should be clearly outlined in the Equipment Provider's addendum.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (September 19, 2016) to make its decision:

EP's ADDENDUM TO THE UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

EXHIBIT 2 TO EP'S ADDENDUM TO THE UIIA

Procedures for Repairs Performed on EP Equipment and Invoicing Instructions

In order for EP to be responsible for and to bear the cost of EP Equipment, the Motor Carrier (MC) must follow the instructions and procedures defined below.

1. Process for Emergency Roadside Repairs
 - A. The Motor Carrier must call EP's Emergency Road Service Number (as referenced below) for all maintenance and repair related items. EP's Emergency Road Service Repair Company may require Motor Carrier to return empty equipment to the intermodal ramp for repair. Motor Carrier in possession of the equipment will be responsible for all incurred "Dry Run" charges, and will be rebilled for repairs categorized as "Damage" per the UIIA.
2. Process for Motor Carrier to Bill Back Authorized Repairs
 - A. Ordinary maintenance is absorbed by Motor Carrier when cost thereof is \$50.00 or less. Ordinary maintenance is billed to and borne entirely by EP when the cost thereof exceeds \$50.00. All invoicing must be received within (90) days from the date the repairs were completed including items listed under sub-section 1 below. Repairs performed by the Motor Carrier that are deemed improper and that do not meet generally accepted repair standards shall be corrected to these standards and rebilled to the Motor Carrier including a \$50 administration fee.
 1. For all Repairs (mechanical and tire) in addition to the information above, the following must be provided. Failure to include all required elements with submission will result in the invoice being rejected.
 - a. Digital photographs of the owner item defect in pre and post-repair condition. Photographs must include date and time stamp, and must clearly show the owner item defect and the subsequent repair.
 - b. Digital photographs of the container and chassis unit numbers.
 - c. The original invoice.
 - d. Origin Terminal for equipment and date interchange occurred.

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]**

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 transactions such documentation must include images depicting the condition of the Equipment at the time the Motor Carrier to be charged both accepted and returned the Equipment. **[Revised 09/01/09]**

4. Tires

- a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**
- b. Repair of tires unrelated to Damage occurring during Motor Carrier's possession is the sole responsibility of the Provider, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**

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

CASE REVIEWED AND DECIDED BY:

FRED HUENNEKENS
Motor Carrier Member

TIM WILLIAMS
Rail Carrier Member

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 Rail Carrier panel member noted the invoice was issued in accordance with the UIIA and the Equipment Provider's Addendum. The Motor Carrier panel member stated that the ingate AGS photo documents a slid flat condition per Exhibit C of the UIIA.

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:

UIIA Equipment Provider's - Addendum to the Uniform Intermodal Interchange and Facilities Access Agreement

5. INTERCHANGE OF EQUIPMENT AND CONDITION UPON RETURN

- 5.1 EIR Reports and Inspection. In connection with the pre-trip inspection that Motor Carrier must conduct under the UIIA, Motor Carrier must ensure that the EIR is completed at the time any of the Providers Equipment leaves a facility (i.e. upon Interchange to Motor Carrier). Similarly, Motor Carrier must ensure that an EIR and the driver vehicle inspection report required under federal regulation is completed at the time any of the Provider's Equipment is returned to a facility (i.e., upon Interchange back to Provider). Motor Carrier will report to the Provider any Equipment that does not pass the pre-trip inspection that Motor Carrier must conduct under the UIIA. Bad order Equipment may be reported to a maintenance and repair ("M&R") representative at his or her number listed in Schedule 1 or to the Provider's Customer Support at 1-800-876-7281. Motor Carrier will contact an M&R representative at one of the numbers listed on Schedule 1 if the terminal or container yard personnel are refusing to note accurately or completely the condition of the Equipment on the EIR. If Motor Carrier's driver has a request for a repair of an item that is denied at the terminal or yard, the Provider's M&R provider at such terminal or yard will provide signed documentation of the request, its denial and the reason for the denial, and Motor Carrier will not be responsible for any subsequent failure of this item. If the Equipment is missing license plates and/or registrations, Motor Carrier should obtain a replacement by contacting the Equipment Provider's Equipment Planning and Control Department at the number listed in Schedule 1 during normal business hours. Motor Carrier should obtain replacements before out-gate.
- 5.2 Reliance on EIR Information. The dates, times and information shown on the EIR may be used for, among other matters, determining free time, assessing Equipment use charges, verifying damage to Equipment and assessing the condition of the Provider's Equipment with respect to freight claims.
- 5.3 Responsibility for Owner Operators. Motor Carrier will be responsible to the Provider for the performance of the obligations in the Agreement and shall accept responsibility for all owner operators and their leased power units as if they were Motor Carrier's own employees and vehicles.
- 5.4 Direct Interchanges. A direct Interchange occurs when possession and control of the Provider's Equipment is transferred directly from one motor carrier to another motor carrier without the return of the Equipment to a rail terminal or container yard or when, after completion of a move for a particular customer, Motor Carrier performs a new move for a different customer using the

same unit of Equipment. Direct Interchanges are intended to allow for more efficient Equipment flow than would occur if Equipment were required to be returned to the location at which it was received after each movement. the Provider has implemented a web-based Equipment management system that allows online input and tracking of direct Interchanges. If Motor Carrier fails to record the direct Interchange of Equipment from it to another motor carrier as permitted by separate bi-lateral agreement, the Equipment will remain Interchanged to Motor Carrier under the UIIA, and Motor Carrier may be held responsible for per diem charges, M&R expense, Equipment loss or damage and similar events that occurred while the Equipment was in actual possession of another motor carrier. Motor Carrier will not directly interchange the Equipment to a motor carrier that is not a signatory to the UIIA.

- 5.5 Equipment Condition Upon Return. If the Equipment is not returned in the condition described in Section D.3.d of the UIIA, the Provider may assess the full actual cost of any dunnage removal, repairs, rehabilitation or cleaning, subject to a minimum charge per unit of Equipment of \$75 for dunnage removal.

E. Equipment Use

4. Tires

- a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**
- b. Repair of tires unrelated to Damage occurring during Motor Carrier's possession is the sole responsibility of the Provider, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**

Exhibit C to UIIA

Motor Carrier Responsibility During the Interchange Period

Tires

Tire has body ply or belt material exposed through the tread or sidewall

Tire shoulder and/or tread cut/punctured through one or more plies of fabric when such injury is larger than 1/4"

Slid Flat Damage to tire and/or tube - removal of tread or rubber to 2/32 inches of remaining tread depth or less in the affected area (flat spot) while the remaining unaffected tread depth is more than 4/32 inches

Run Flat damage to tire and/or tube

Missing Tire, tube or rim

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

CASE REVIEWED AND DECIDED BY:

CLIFF CREECH
Rail Carrier Member

JEFFREY LANG
Motor Carrier Member

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

In the Dispute Between

UIIA MC,
Appellant, and

UIIA EP,
Respondent

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Case Number: **20170602-25-XXXF-MR-TR**

Date of Decision: 08/31/2017

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	286878854	UPHZ144613	05/04/2017	LATC/Los Angeles (ELA)	02/25/17	03/16/17	05/04/17	05/4/17	05/31/2017	06/2/17

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier's basis of dispute is Section E.3 of the UIIA. The Motor Carrier feels that the images that the Equipment Provider provided with the invoice did not show sufficient evidence that the unit in the image was the actual unit outgated by the Motor Carrier. The Motor Carrier stated that the pictures that were provided show only the tire image and nothing else, no chassis ID or unit number. The Motor Carrier obtained additional images from the Provider's website; however, the Motor Carrier does not believe the damage is visible on these images.

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

The Equipment Provider did respond to the claim stating that the outgate transaction by Motor Carrier was "clean" relative to the tires while the ingate transaction photos showed slid flat tire damage for a "dirty" ingate. The Equipment Provider added that this case is straightforward as it involves a clean outgate J1 as it relates to the tire damage and that the unit was ingated through an AGS showing the damage. Consequently, the Equipment Provider stands by the invoice and believes the charges are valid as billed.

DISCUSSION:

After careful review of all documents and the evidence submitted by the parties, the panel finds in favor of the Equipment Provider. The Rail Carrier panel member noted that the tire damage was not documented on the outgate EIR, but was visible on the ingate images. The Motor Carrier panel member agreed with the finding stating that the slid flat is properly captured on AGS.

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:

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]**
 - 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 transactions such documentation must include images depicting the condition of the Equipment at the time the Motor Carrier to be charged both accepted and returned the Equipment. **[Revised 09/01/09]**

4. Tires

- a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**
- b. Repair of tires unrelated to Damage occurring during Motor Carrier's possession is the sole responsibility of the Provider, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**

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

CASE REVIEWED AND DECIDED BY:

CHAD PETERSON
Rail Carrier Member

KEVIN LHOTAK
Motor Carrier Member

DECISION:

After careful review of all documents and the evidence submitted by the parties, the panel unanimously finds in favor of the Motor Carrier for Invoice 1 (286777738) in the amount of \$00.00 and (Invoice 3 (287022557) in the amount of \$00.00, and in favor of the Equipment Provider for Invoice 2 (28699810) in the amount of \$00.00 for the following reasons:

- Invoice 1 (286777738) – The Rail Carrier panel member noted that there was a lack of documentation that the AGS image documented a condition requiring replacement of the tire. The Motor Carrier panel member agreed stating the AGS ingate photo does not provide factual documentation that the Motor Carrier damaged the tire.
- Invoice 2 (28699810) – The Rail Carrier panel member noted the invoice was issued in accordance with the UIIA and the Equipment Provider's Addendum. The Motor Carrier panel member stated that the AGS document shows an embedded object in tire necessitating repair.
- Invoice 3 (287022557) – The Rail Carrier panel member commented that the Equipment Provider did not establish that the tread depth met the requirements of Exhibit C to be invoiced as a slid flat tire. The Motor Carrier panel member agreed with the conclusion of the Rail panel member and stated that the ingate AGS photos did not document a slid flat condition per Exhibit C of the UIIA.

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:

EQUIPMENT PROVIDER'S ADDENDUM TO THE UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

7. EQUIPMENT INTERCHANGE RECEIPTS: GATE INSPECTIONS.

- A. At time of in-gate, EP's gatehouse operator will document the time of Interchange and other information on EP's J-1 report or in an electronic data format, including, if applicable, any Equipment damage noted by the gatehouse operator. When the gatehouse operator has completed the inspection, the gatehouse operator will give the J-1, or a similar receipt to the Motor Carrier's driver. If a J-1 report is used, both the gatehouse operator and the Motor Carrier's driver will sign the J-1. If, however, a receipt from an electronic data format is prepared, neither the gatehouse operator nor the Motor Carrier's driver will sign the receipt that is given to the Motor Carrier's driver. The J-1 report or the printed receipt from an electronic device will serve as the "Equipment Interchange Receipt".

At a manual gate, any damage to Equipment discovered by EP's gatehouse operator will be presumed to have been caused by the Motor Carrier that Interchanged the Equipment to EP at the time of in-gate and the Motor Carrier will be liable for all such damage unless the Party with access to the prior out-gate EIR or out-gate Recorded Image provides a copy of this documentation identifying the damage discovered by EP's gate house operator.

At an AGS gate, any damage to Equipment discovered by EP's gatehouse operator or brought to EP's later attention, including

but not limited to any subsequent inspection by EP or another railroad, will be presumed to have been caused by the Motor Carrier that Interchanged the Equipment to EP at the time of in-gate and the Motor Carrier will be liable for all such damage unless the Party with access to the prior out-gate EIR or out-gate Recorded Image provides a copy of this documentation identifying the damage discovered by EP's gatehouse operator or brought to EP's later attention. The damage brought to EP's later attention must be captured on an AGS image.

D. Equipment Interchange

2. Equipment Interchange Receipts

- c. If Recorded Images are taken at the time of Interchange, Damage will not be reported on ingate or outgate EIR. The words "Damage is captured on Recorded Images" will be printed on the Equipment Interchange Receipt. All such Recorded Images will be made available for each Party for a period of 1 year from Interchange without charge. **[Revised 11/12/12]**

3. Equipment Condition

- 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

4. Tires

- a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**

Exhibit C to UIIA

Motor Carrier Responsibility During the Interchange Period

Tires

Tire has body ply or belt material exposed through the tread or sidewall

Tire shoulder and/or tread cut/punctured through one or more plies of fabric when such injury is larger than 1/4"

Slid Flat Damage to tire and/or tube - removal of tread or rubber to 2/32 inches of remaining tread depth or less in the affected area (flat spot) while the remaining unaffected tread depth is more than 4/32 inches

Run Flat damage to tire and/or tube

Missing Tire, tube or rim

DECISION: The panel unanimously finds in favor of the Motor Carrier for Invoice 1 (286777738) in the amount of \$00.00 and (Invoice 3 (287022557) in the amount of \$00.00.

The panel unanimously finds in favor of the Equipment Provider for Invoice 2 (28699810) in the amount of \$00.00.

CASE REVIEWED AND DECIDED BY:

CLIFF CREECH
Rail Carrier Member

JEFFREY LANG
Motor Carrier Member

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 stated the ingate clearly shows a bolt through the tread of the tire. The Rail Carrier panel member agreed stating the bolt through the tread of the RIF tire is clearly visible on the 4/3/17 ingate image.

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:

D. Equipment Interchange

2. Equipment Interchange Receipts

- c. If Recorded Images are taken at the time of Interchange, Damage will not be reported on ingate or outgate EIR. The words "Damage is captured on Recorded Images" will be printed on the Equipment Interchange Receipt. All such Recorded Images will be made available for each Party for a period of 1 year from Interchange without charge. **[Revised 11/12/12]**

3. Equipment Condition

- 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

4. Tires

- a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**

Exhibit C to UIIA

Motor Carrier Responsibility During the Interchange Period

Tires

Tire has body ply or belt material exposed through the tread or sidewall

Tire shoulder and/or tread cut/punctured through one or more plies of fabric when such injury is larger than 1/4"

Slid Flat Damage to tire and/or tube - removal of tread or rubber to 2/32 inches of remaining tread depth or less in the affected area (flat spot) while the remaining unaffected tread depth is more than 4/32 inches

Run Flat damage to tire and/or tube

Missing Tire, tube or rim

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

CASE REVIEWED AND DECIDED BY:

KEVIN LHOTAK
Motor Carrier Member

CHAD PETERSON
Rail Carrier Member

later. The Motor Carrier also stated that the tread depth cannot be determined from the images provided. Therefore, the Motor Carrier feels they should not be held liable for this tire replacement

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

The Equipment Provider responded to the claim stating that after their review of both invoices, it believes that the Motor Carrier is responsible for damages in both cases. Under the UIIA, the outgates provided in both were clean. The ingates in both show damage. It is completely irrelevant if it was a cross-town move. The Motor Carrier attempted to point towards AAR billing between railroads. That is also irrelevant under the UIIA. No where in the UIIA does it point towards an extrinsic agreement between other parties. This invoice, and this damage is subject to the UIIA. There is no J2 billing process under the UIIA. The Equipment Provider added that had the Motor Carrier provided definitive proof that this damage was pre-existing, then the invoice would be removed from the Motor Carrier's account. Consequently, the Equipment Provider believes charges are valid 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 stated that a part of the dispute raised by the Motor Carrier is that these were cross-town moves and any damage should be considered normal wear and tear. The UIIA does not include any exceptions from reporting damage prior to interchange based on the type of movement involving the equipment. The fact that these were cross-town moves is not material to the damage issue involving either disputed invoice. In addition, the Motor Carrier panel member noted:

- INVOICE #1 - HGIU 504372/TSFZ 568814 - There is no damage listed on the outgate interchange from NS. The Equipment Provider provided an ingate image of the LIF tire that shows something may have punctured the tread when the equipment was returned to UP Global 4. The Equipment Provider provided a post ingate close up image of the tire that clearly shows a bolt has punctured the tread in the same location as the damage visible on the ingate image.
- Section 7.A paragraph 3 of the Equipment Provider's Addendum to the UIIA provides that any damage discovered after the equipment is interchanged will be considered the responsibility of the Motor Carrier provided the damage was captured on an AGS image at the time of interchange. The AGS images and post interchange image supplied by the Equipment Provider meet the requirement of UIIA Section E.3.(a) and UP Addendum Section 7.A.
- The Motor Carrier panel member also noted that circumstances regarding this invoice are similar to the decision reached in Case 20161125-15-DNNH-MR-OTH-UP.
- INVOICE #2 - HGIU 509624/NSFZ 131131 - There is no damage listed on the outgate interchange from NS. The Equipment Provider provided ingate images of the LOF tire that shows the side wall of the tire was cut. The AGS images supplied by the Equipment Provider meet the requirement of UIIA Section E.3.(a).

The Rail Carrier panel member agreed with the finding for the Equipment Provider adding:

- Invoice 1 - TSFZ 568814 – There was no outgate damage notated and clear damage (bolt in tread) on ingate photos. Combined with the repair picture, the bolt location was exactly the same as in the ingate photos.
- Invoice 2 - NSFZ 131131 - There was no outgate damage notated and clear damage (cut in tire) on ingate photo.

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:

EQUIPMENT PROVIDERS ADDENDUM TO THE UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

7. EQUIPMENT INTERCHANGE RECEIPTS: GATE INSPECTIONS.

- A. At time of ingate, EP's gatehouse operator will document the time of Interchange and other information on EP's J-1 report or in an electronic data format, including, if applicable, any Equipment damage noted by the gatehouse operator. When the gatehouse operator has completed the inspection, the gatehouse operator will give the J-1, or a similar receipt to the Motor Carrier's driver. If a J-1 report is used, both the gatehouse operator and the Motor Carrier's driver will sign the J-1. If, however, a receipt from an electronic data format is prepared, neither the gatehouse operator nor the Motor Carrier's driver will sign the receipt that is given to the Motor Carrier's driver. The J-1 report or the printed receipt from an electronic device will serve as the "Equipment Interchange Receipt".

At a manual gate, any damage to Equipment discovered by EP's gatehouse operator will be presumed to have been caused by the Motor Carrier that Interchanged the Equipment to EP at the time of ingate and the Motor Carrier will be liable for all such damage unless the Party with access to the prior outgate EIR or outgate Recorded Image provides a copy of this documentation identifying the damage discovered by UPRR's gate house operator.

At an AGS gate, any damage to Equipment discovered by EP's gatehouse operator or brought to EP's later attention, including but not limited to any subsequent inspection by EP or another railroad, will be presumed to have been caused by the Motor Carrier that Interchanged the Equipment to EP at the time of ingate and the Motor Carrier will be liable for all such damage unless the Party with access to the prior outgate EIR or outgate Recorded Image provides a copy of this documentation identifying the damage discovered by EP's gatehouse operator or brought to UPRR's later attention. The damage brought to EP's later attention must be captured on an AGS image.

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]**
- c. If Recorded Images are taken at the time of Interchange, Damage will not be reported on ingate or outgate EIR. The words "Damage is captured on Recorded Images" will be printed on the Equipment Interchange Receipt. All such Recorded Images will be made available for each Party for a period of 1 year from Interchange without charge. **[Revised 11/12/12]**

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

4. Tires

- a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**

Exhibit C to UIIA

Motor Carrier Responsibility During the Interchange Period

Tires

Tire has body ply or belt material exposed through the tread or sidewall

Tire shoulder and/or tread cut/punctured through one or more plies of fabric when such injury is larger than 1/4"

Slid Flat Damage to tire and/or tube - removal of tread or rubber to 2/32 inches of remaining tread depth or less in the affected area (flat spot) while the remaining unaffected tread depth is more than 4/32 inches

Run Flat damage to tire and/or tube

Missing Tire, tube or rim

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

CASE REVIEWED AND DECIDED BY:

FRED HUENNEKENS
Motor Carrier Member

TIM WILLIAMS
Rail Carrier Member

In the Dispute Between

Case Number: **20171124-37-XXXP-MR-TR**

Date of Decision: 01/31/2018

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	289573669	TSXZ906129	10/03/17	Global 1/Global 4	6/27/17	7/28/17	10/03/17	10/12/17	11/10/17	11/24/17
2	289679299		10/09/17	Dolton/Global 2	7/19/17	7/24/17	10/09/17	10/12/17	11/10/17	11/24/17

The Motor Carrier's basis of dispute is Sections D.2.a. and D.3.d of the UIIA. The Equipment Provider furnished ingate images of the tire for Invoice 1; however the Motor Carrier does not believe the images depicted any damage or a run flat of the LIR tire. The images provided only showed shadows and glares making it impossible to accurately assess the tire tread depth on the provided AGS images. The Motor Carrier believes that the unit was returned in the same condition as when it was outgated, reasonable wear and tear excepted. The Motor Carrier also stated that on Invoice 2 the AGS images provided from the Equipment Provider do not depict a cut spotted to 0/32 inches and the tread depth of the tire cannot be determined. As with the first invoice, the Motor Carrier believes the equipment associated with Invoice 2 was also returned to the Equipment Provider in the same condition as when it was outgated, reasonable wear and tear excepted.

The Equipment Provider responded to the claim stating that the Motor Carrier is required to perform a thorough inspection of the unit prior to accepting for interchange. The Equipment Provider noted that according to the documentation associated with Invoice 1, the unit outgated with no damage notated. The unit then ingated with a concave tire, which is an indication of a flat condition. The Equipment Provider also indicated that the pre-repair photos show the tubing of the tire shredded inside. In accordance with Exhibit A, Item 8.a., the Equipment Provider indicated that the Motor Carrier

is to check for under inflation of tires (among other items) prior to accepting the unit for interchange. The Equipment Provider added that Exhibit C of the UIIA includes damage to a run flat tire and/or tube during the interchange period as the Motor Carrier's responsibility. Consequently, the Equipment Provider believes Invoice 1 should stand.

In regards to Invoice 2, the Equipment Provider noted that there was a typographical error on the outgate interchange documentation in regards to the alpha portion of the equipment identification number. The outgate references NSFZ for the chassis ID and it should be NSPZ as evidenced by the AGS images. The Equipment Provider believes this invoice is also valid as billed as both the AGS tire images and the pre-repair photo show that the tire suffered a major injury cutting through numerous treads exceeding well beyond a 1/4 inch. If the Motor Carrier alleges the condition was pre-existing, then it should have discovered the damage during its pre-trip inspection and corrected the condition prior to departing the ramp.

DECISION:

After careful review of all documents and the evidence submitted by the parties, the panel unanimously finds in favor of the Equipment Provider for the following reasons:

- Invoice 1 - The LIR tire is concave. It definitely appears to be flat. Additionally, a close examination of the LOR tire visible on TSXZ 906129 G4 INGATE FULL - Invoice 1 AGS gate image shows that the outside tire was noticeably scuffed or scrapped. That suggests the tires impacted something. No damage was listed on the outgate interchange from CP for either the LIR or LOR tires. The LIR tire was flat when it arrived at the rail. As a result, the Motor Carrier is responsible for the damage.
- Invoice 2 - There is no damage listed on the outgate interchange from CP. The Equipment Provider has provided ingate images of the LOF tire that shows the tire was cut across several treads. The Equipment Provider provided post ingate images of the tire that clearly show the tread was cut through more than one plies of fabric at the shoulder. This meets the requirement for Motor Carrier responsibility listed in Exhibit C. In addition, Section 7.A paragraph 3 of the Equipment Provider's Addendum to the UIIA provides that any damage discovered after the equipment is interchanged will be considered the responsibility of the Motor Carrier provided the damage was captured on an AGS image at the time of interchange. Both panel members believe the AGS images and post interchange image supplied by the EP meet the requirement of UIIA Section E.3. (a) and EP's Addendum Section 7.A.

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:

UIIA EQUIPMENT PROVIDERS ADDENDUM TO THE UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

7. EQUIPMENT INTERCHANGE RECEIPTS: GATE INSPECTIONS.

- A. At time of in-gate, the rails gatehouse operator will document the time of Interchange and other information on EP's J-1 report or in an electronic data format, including, if applicable, any Equipment damage noted by the gatehouse operator. When the gatehouse operator has completed the inspection, the gatehouse operator will give the J-1, or a similar receipt to the Motor Carrier's driver. If a J-1 report is used, both the gatehouse operator and the Motor Carrier's driver will sign the J-1. If, however, a receipt from an electronic data format is

prepared, neither the gatehouse operator nor the Motor Carrier's driver will sign the receipt that is given to the Motor Carrier's driver. The J-1 report or the printed receipt from an electronic device will serve as the "Equipment Interchange Receipt".

At a manual gate, any damage to Equipment discovered by EP's gatehouse operator will be presumed to have been caused by the Motor Carrier that Interchanged the Equipment to EP at the time of in-gate and the Motor Carrier will be liable for all such damage unless the Party with access to the prior out-gate EIR or out-gate Recorded Image provides a copy of this documentation identifying the damage discovered by EP's gate house operator.

At an AGS gate, any damage to Equipment discovered by EP's gatehouse operator or brought to EP's later attention, including but not limited to any subsequent inspection by EP or another railroad, will be presumed to have been caused by the Motor Carrier that Interchanged the Equipment to EP at the time of in-gate and the Motor Carrier will be liable for all such damage unless the Party with access to the prior out-gate EIR or out-gate Recorded Image provides a copy of this documentation identifying the damage discovered by EP's gatehouse operator or brought to EP's later attention. The damage brought to EP's later attention must be captured on an AGS image.

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 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

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]**
 - 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 transactions such documentation must include images depicting the condition of the Equipment at the time the Motor Carrier to be charged both accepted and returned the Equipment. **[Revised 09/01/09]**

4. Tires

- a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**

Exhibit A to UIIA

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

Exhibit C to UIIA

Motor Carrier Responsibility During the Interchange Period

Tires

Tire has body ply or belt material exposed through the tread or sidewall

Tire shoulder and/or tread cut/punctured through one or more plies of fabric when such injury is larger than 1/4"

Slid Flat Damage to tire and/or tube - removal of tread or rubber to 2/32 inches of remaining tread depth or less

in the affected area (flat spot) while the remaining unaffected tread depth is more than 4/32 inches

Run Flat damage to tire and/or tube

Missing Tire, tube or rim

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

CASE REVIEWED AND DECIDED BY:

FRED HUENNEKENS
Motor Carrier Member

TIM WILLIAMS
Rail Carrier Member

Regarding the Motor Carrier's argument that a bud wheel cannot be slid flat, the Equipment Provider believes this is not an accurate statement. The Equipment Provider stated that there are many factors that can cause a single slid flat (i.e. unequal tread depths, different tire pressures, etc.). The Equipment Provider indicated that for the unit in question, both tires on the same wheel set were slid flat (RIR and ROR) and both were replaced. The Motor Carrier was only billed for the ROR tire as the photographic evidence of the slid fat at the ingate on the RIR tire was not clear enough to hold the Motor Carrier responsible for this repair. The Equipment Provider also noted that the gate technology used at this facility was photographic evidence at ingate and manual reporting at the outgate. The method of reporting defects does not have to be the same at both points of the interchange. This was previously upheld by a prior arbitration decision (20161117-1-XXXV-MR-TR). In addition, tread depth of a tire has never been a required measurement at the time of interchange.

For the reasons identified above, the Equipment Provider believes the invoice is valid and should stand as billed.

DECISION:

The panel carefully reviewed all documents and evidence submitted by the parties. Based upon the supporting documents and evidence submitted, the Rail Carrier panel member found in favor of the Equipment Provider stating that based upon the evidence submitted it is her assessment that the unit was in good working order at the time of outgate. The IEP presented a reference noting that the unit had a pre-trip inspection 2 days prior to outgate by the carrier indicating that the unit did have some attention to the basic components of the unit. This process would be validated by the drivers required level one inspection with the clerk. The only real documentation that is present is a clean outgate and visible damage at ingate.

The Motor Carrier panel member found in favor of the Motor Carrier noting the IEP's responses to the potential root causes are speculative in nature, with numerous "what if's" that weren't identified and that could have been a result of faulty maintained equipment. In addition, there is no evidence that the driver used his trolley brake to override the ABS system. Such deliberate and negligent action by the driver would have resulted in slid flats to multiple sets of wheels and tires. There is no such photographic evidence that was submitted that indicates that slid flats were present to any other set of tires on this chassis. Because of such reasoning, the tires could have been in this condition and undetectable to the driver during his pre-trip inspection due to slid flat being in direct contact with the ground, as well as the time of day (2:49 am), or a failure within the ABS system.

In addition, in cases where a slid flat tired is identified, it would be prudent and expected, in this panel member's opinion, that the IEP immediately perform a download of the ECU and include that with the invoice as supporting documentation. It is not equitable to find the Motor Carrier at fault exclusively on the EIR documentation provided due to the speculations surrounding the potential causes of a single slid flat, as well as previous concerns raised by Motor Carriers regarding "split gate" operations and the lack of tread depth measurements at both the ingate and outgate despite there being no current language within the UIIA requiring such measurements to be taken.

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

Upon review of the information submitted with the claim, the senior arbitration panel found the case in favor of the Equipment Provider. It was the consensus of the senior arbitration panel members that the Equipment Provider did in fact properly document and identify the repairs billed. There were no previous indications that there were brake issues and therefore, the senior panel members find that the tire repair bill meets the definition for a slid flat tire in accordance with Exhibit C of the UIIA. Exhibit C states, "Slid Flat Damage to tire and/or Tube – removal of tread or rubber to 2/32

inches of remaining tread depth or less in the affected area(flat spot) while the remaining unaffected tread depth is more than 4/32 inches". The senior panel members agreed that the Equipment Provider complied with providing the documentation and images to support their billing.

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

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]**

4. Tires

- a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**
- b. Repair of tires unrelated to Damage occurring during Motor Carrier's possession is the sole responsibility of the Provider, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**
- c. Photographic evidence shall be used for tire repair responsibility assignment. Photos of the tire will be produced by the road service provider based upon the stipulated criteria set forth in the Supplement to Exhibit C, Tire Marking and Photo Requirements of the UIIA. **[Added 08/01/18]**
- d. A Provider cannot require the Motor Carrier to return the physical carcass of a tire. **[Added 08/01/18]**

Exhibit B to UIIA, Provider Responsibility (added to UIIA on 07/25/07, Last Revised 10/01/18)

Brake adjustments on trailers or chassis (1)

Brake and brake component repairs (2)

Tires and Tubes, renewals, repairs or replacement

A repair made to any item listed in Exhibit B is the responsibility of the Provider unless the repair made is a result of damage that occurred during the Interchange Period.

Exhibit C to UIIA, Motor Carrier Responsibility during the Interchange Period (Added to UIIA on 07/25/07, Last Revised 10/01/18)

Slid Flat Damage to tire and/or tube - removal of tread or rubber to 2/32 inches of remaining tread depth or less in the affected area (flat spot) while the remaining unaffected tread depth is more than 4/32 inches.

EXHIBIT D TO THE UIIA, BINDING ARBITRATION PROCESS GUIDELINES (Added to UIIA on 8/1/08) (Last Revised 09/16/17)

3. A two-member arbitration panel will be appointed by IANA to handle disputed invoices submitted for arbitration. The panel will consist of one IIEC member from each mode involved in the dispute. In the event that the arbitrators from the involved modes cannot agree on a resolution of this dispute, a decision will be rendered by a majority of a senior panel consisting of the longest tenured IIEC member or alternate from each mode, as determined by the Chairperson. **[Revised 09/16/17]**

DECISION: The Senior DRP Panel unanimously finds in favor of the Equipment Provider.

CASE REVIEWED AND DECIDED BY:

LaVERSIA (ELLE) SPENCER
Rail Carrier Modal Panel Member

ROBERT LOYA
Motor Carrier Modal Panel Member

DAVE MANNING
Motor Carrier Senior DRP Panel Member

GORDON GRAHAM
Rail Carrier Senior DRP Panel Member

AL SMERALDO
Ocean Carrier Senior DRP Panel Member

In the Dispute Between

Case Number: **20190725-1-XXXF-MR-TRSF**

Date of Decision: 01/28/2020

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	301114582	UMXU254616	6/14/2019	UP City of Industry/UP Commerce	5/13/19	5/15/19	6/14/19	6/24/19	7/23/19	7/25/19

The Motor Carrier's basis of dispute is Section D.2.d. of the UIIA. The Motor Carrier was invoiced for slid flat tire damage. The Motor Carrier believes the slid flat was caused by normal wear and tear and not driver abuse. If the slid flat was a result of driver abuse, both tires on the same axle would be slid flat. The Motor Carrier believes that the slid flat could be a result of uneven tread wear, which is not the Motor Carrier's responsibility. The Motor Carrier also stated that the tire was barely visible in the images provided by the Equipment Provider. Consequently, the Motor Carrier does not believe there is sufficient evidence to hold them responsible for this invoice.

The Equipment Provider responded to the claim stating that they have documented numerous ways in which a single slid flat tire can appear on a chassis. The Equipment Provider also stated that the Motor Carrier's assertion that a single slid flat is a mechanical impossibility is inaccurate. The pre-repair photos indicate that there was a slid flat on both right tires (inside & outside). However, the carrier was only billed for the damage visible on the tire at ingate. Therefore, the Equipment Provider feels that based on the documentation, they consider this invoice to be valid and shall stand.

DECISION:

The panel carefully reviewed all documents and evidence submitted by the parties. Based upon the supporting documents and evidence submitted, the Motor Carrier panel member found in favor of the Motor Carrier stating that the photos did not provide sufficient evidence to support a slid flat or that they showed there is enough tread missing to call it a slid flat.

The Rail panel member found in favor of the Equipment Provider stating the Equipment Provider provided evidence that both tires on the same axle were replaced and met the definition of slid flat. In looking at a close-up image of the slid flat on the subject tire pre-repair, the same pattern is evident on the close-up image provided at IG (specifically the oval pattern of the slid flat and the tread deformation within the slid flat). While portions of the IG image are blurred by light reflection, the image provides sufficient evidence that the slid flat on the subject tire upon repair also existed upon IG by the Motor Carrier.

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

Upon review of the information submitted with the claim, the senior arbitration panel found the case in favor of the Motor Carrier. It was the consensus of all three senior arbitration panel members that the Equipment Provider did not provide sufficient evidence to support that the Motor Carrier was responsible for the damage. The senior arbitration panel noted there was no documentation showing that the slid flat tire met the definition of a slid flat in accordance with Exhibit C of the UIIA. Exhibit C states, "Slid Flat Damage to tire and/or Tube – removal of tread or rubber to 2/32 inches of remaining tread depth or less in the affected area(flat spot) while the remaining unaffected tread depth is more than 4/32 inches". Although photos were provided, there was not adequate proof of the 4/32nd differential and that the remaining tire tread was less than 2/32nds. Therefore the senior arbitration panel agreed that the Equipment Provider did not comply with Section E.3.a.(2) of the UIIA by providing adequate factual documentation to support the damage billed.

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

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]**
4. Tires
 - b. Repair of tires unrelated to Damage occurring during Motor Carrier's possession is the sole responsibility of the Provider, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**
 - c. Photographic evidence shall be used for tire repair responsibility assignment. Photos of the tire will be produced by the road service provider based upon the stipulated criteria set forth in the Supplement to Exhibit C, Tire Marking and Photo Requirements of the UIIA. **[Added 08/01/18]**

Exhibit C to UIIA, Motor Carrier Responsibility during the Interchange Period (Added to UIIA on 07/25/07, Last Revised 10/01/18)

Slid Flat Damage to tire and/or tube - removal of tread or rubber to 2/32 inches of remaining tread depth or less in the affected area (flat spot) while the remaining unaffected tread depth is more than 4/32 inches.

EXHIBIT D TO THE UIIA, BINDING ARBITRATION PROCESS GUIDELINES (Added to UIIA on 8/1/08) (Last Revised 09/16/17)

3. A two-member arbitration panel will be appointed by IANA to handle disputed invoices submitted for arbitration. The panel will consist of one IIEC member from each mode involved in the dispute. In the event that the arbitrators from the involved modes cannot agree on a resolution of this dispute, a decision will be rendered by a majority of a senior panel consisting of the longest tenured IIEC member or alternate from each mode, as determined by the Chairperson. **[Revised 09/16/17]**

DECISION: The Senior DRP Panel unanimously finds in favor of the Motor Carrier.

CASE REVIEWED AND DECIDED BY:

KEVIN LHOTAK
Motor Carrier Modal Panel Member

GORDON GRAHAM
Rail Carrier Modal Panel Member

DAVE MANNING
Motor Carrier Senior DRP Panel Member

AL SMERALDO
Ocean Carrier Senior DRP Panel Member

BILL TRAUB
Rail Carrier Senior DRP Panel Member

Invoice 2 - The Motor Carrier stated that this was also a cross-town move dispatched to them by Canadian Pacific (CP). The Equipment Provider provided an ingate AGS image billing the Motor Carrier for a slid flat tire. However, the Motor Carrier argues the fact that the unit was repaired over two months after the ingate date, and the documentation provided by the Equipment Provider did not provide adequate proof of the 4/32nd differential in the tire and that the remaining tire tread was less than 2/32nds at the time of ingate. Therefore, the Motor Carrier believes that the Equipment Provider did not comply with Section E.3.a.(2) of the UIIA by providing adequate factual documentation to support the damage billed.

Based on the above information and the supporting documentation provided, the Motor Carrier feels they should not be held liable for the two (2) slid flat tire invoice repairs.

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

The Equipment Provider responded to the claim regarding both invoices, as follows:

Invoice 1 - The Equipment Provider stated that the J1 provided by the Motor Carrier did not illustrate that the damage existed when outgated from the Norfolk Southern rail facility. The Equipment Provider also stated that if damage was not visible on the outgate from the evidence provided, it does fall on the responsibility of the Motor Carrier. The Equipment Provider provided the following language as outlined in their Addendum to the UIIA and believes that Invoice 1 is valid as billed.

Equipment Provider's Addendum to the Uniform Intermodal Interchange and Facilities Access Agreement:

Section 7.A, Paragraph 3

At an AGS gate, any damage to Equipment discovered by EP's gatehouse operator or brought to EP's later attention, including but not limited to any subsequent inspection by the EP or another railroad, will be presumed to have been caused by the Motor Carrier that Interchanged the Equipment to the EP at the time of in-gate and the Motor Carrier will be liable for all such damage unless the Party with access to the prior out-gate EIR or out-gate Recorded Image provides a copy of this documentation identifying the damage discovered by EP's gatehouse operator or brought to EP's later attention. The damage brought to EP's later attention must be captured on an AGS image.

Invoice 2 - The Equipment Provider stated that the Motor Carrier is claiming that they did not provide the appropriate items required in the Supplement to Exhibit C of the UIIA, which the Equipment Provider believes is only required to be provided for roadside repairs. The Equipment Provider stated that the repairs that are being billed to the Motor Carrier are from an on-terminal repair. The Equipment Provider also stated that they provided the appropriate documentation to the Motor Carrier for this on-terminal repair. Therefore, the Equipment Provider believes that Invoice 2 should stand. The Equipment Provider quoted the following language as outlined under Section E.4. of the UIIA.

Section E.4. Tires

- a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**
- b. Repair of tires unrelated to Damage occurring during Motor Carrier's possession is the sole responsibility of the Provider, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**

- c. Photographic evidence shall be used for tire repair responsibility assignment. Photos of the tire will be produced by the road service provider based upon the stipulated criteria set forth in the Supplement to Exhibit C, Tire Marking and Photo Requirements of the UIIA. **[Added 08/01/18]**
- d. A Provider cannot require the Motor Carrier to return the physical carcass of a tire. **[Added 08/01/18]**

DISCUSSION:

After careful review of all documents and the evidence submitted by the parties, the panel finds in favor of the Equipment Provider. The Motor Carrier is disputing two invoices from the Equipment Provider for slid flat tires. The Motor Carrier panel member indicates that in both instances, the Motor Carrier references the fact that these were cross-town moves and implies that there is a different standard for charging damages on cross-town moves. In fact, the UIIA does not distinguish between cross-town moves and any other type of interchange. The Motor Carrier is required to ensure that damages are notated on outgate interchanges. The rail panel member commented further that there is not a different standard for cross-towns, tread depth measurements are not a requirement, and slid flat tires are not normal wear and tear but are considered damage.

In both instances the Motor Carrier references Exhibit C to the UIIA. The section of Exhibit C for tires being referenced is shown in bold below. The Motor Carrier references the photos and claims the photos do not meet the criteria shown below. The panel thought the photos actually are clear enough and do appear to meet the slid flat criteria.

Exhibit C to UIIA, Tires: Slid Flat Damage to tire and/or tube - removal of tread or rubber to 2/32 inches of remaining tread depth or less in the affected area (flat spot) while the remaining unaffected tread depth is more than 4/32 inches.

In both instances the Motor Carrier also references Exhibit C to the UIIA with the requirements for tread depth measurements shown in bold below. However, tread depth measurements are part of the Supplement to Exhibit C of the UIIA and are required for road repair vendors as it relates to over-the-road repairs. This is not applicable for on-terminal repairs.

Supplement to Exhibit C of the UIIA: Tread Depth measurements for slick tread (09) and slid flat (34)

In both instances the Motor Carrier references that its dispute is based on section D.2.a. and D.3.d. of the UIIA with the phrase “reasonable wear and tear excepted.” (The correct reference to the UIIA is Section D.3.e.) The UIIA clearly references slid flat tires as outside “reasonable wear and tear,” and Exhibit C states that slid flat tires are the Motor Carrier’s responsibility.

Finally, for invoice 310084211, the Motor Carrier provides a previous interchange showing tire damage from another carrier. That interchange shows damage to five tires including the one billed for a slid flat tire on this invoice. However, all five tires show cut / torn and not slid flat. It does not support the Motor Carrier’s claim that the damage they were billed on invoice 310084211 is the same damage noted on the previous interchange provided.

The rail panel member added that the Equipment Provider provided all the required documentation including the invoice and photos at the ingate. Even though tread depth measurements are not a requirement, it is clear in the photos that the slid flat spot was at or below 2/32nds because the affected area was smooth, and the remaining tread was more than 4/32nds. The evidence the Motor Carrier provided did not support its claim of pre-existing damage.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (May 1, 2020) to make its decision:

Section D.2. Equipment Interchange Receipts, Item D.2.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]**

Section D.3. Equipment Condition, Item D.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. **[Revised 06/13/16]**

Section E.3. Damage to Equipment, Item E.3.a.(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]**

Exhibit C to UIIA, Tires

Tire sidewall, shoulder and/or tread cut/punctured/damaged exposing belt material

Slid Flat Damage to tire and/or tube - removal of tread or rubber to 2/32 inches of remaining tread depth or less in the affected area (flat spot) while the remaining unaffected tread depth is more than 4/32 inches.

Run Flat Damage to tire and/or tube

Missing Tire, tube or rim

Section E.4. Tires, Item E.4.a-d

- a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**

- b. Repair of tires unrelated to Damage occurring during Motor Carrier's possession is the sole responsibility of the Provider, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**
- c. Photographic evidence shall be used for tire repair responsibility assignment. Photos of the tire will be produced by the road service provider based upon the stipulated criteria set forth in the Supplement to Exhibit C, Tire Marking and Photo Requirements of the UIIA. **[Added 08/01/18]**
- d. A Provider cannot require the Motor Carrier to return the physical carcass of a tire. **[Added 08/01/18]**

Supplement to Exhibit C of the UIIA: Tread Depth measurements for slick tread (09) and slid flat (34)

DECISION:

Based upon the supporting documents and evidence submitted, both panel members unanimously find in favor of the Equipment Provider on both invoices. The Motor Carrier is responsible for both repair invoices in this dispute.

CASE REVIEWED AND DECIDED BY:

CHRIS GILTZ
Motor Carrier Panel Member

TIM MOORE
Rail Panel Member

CASE –20220908-1-XXXM-MR-TRSF Moving Party: /Responding Party:

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

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*	3TH5901	DDRZ 567801	8/31/22	---	---	---	---	9/2/22	---	---
2	3TH5575	DDRZ 830696	8/16/22	CSX Detroit	3/01/22	7/30/22	8/16/22	8/17/22	8/22/22	9/6/22
3	3TH5473	NSPZ 136724	8/12/22	CSX Detroit	5/23/22	5/24/22	8/12/22	8/17/22	8/22/22	9/6/22

*Invoice 1 was resolved between the parties.

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier is basing its dispute on Section E.4.c., Exhibit C, and the Supplement to Exhibit C of the UIIA. The Motor Carrier's basis of the dispute is that the Equipment Provider did not provide photos that reasonably supported the disputed invoices as per the definition of Slid Flat Damage in Exhibit C of the UIIA. The Motor Carrier states that it cannot be expected to pay tire charges for a slid flat tire damage that does not have measurable tread depth listed. The Motor Carrier states that the photos initially provided may show differences in shading on the sidewall and tread, but they do not confirm removal of tread or rubber to 2/32 inches or less, nor do they confirm that the unaffected tread depth is more than 4/32 inches. The Motor Carrier further states that the Supplement to Exhibit C of the UIIA does not state that it exclusively pertains to off-terminal or road service repairs, as contested by the Equipment Provider. Based on the above information and the supporting documentation provided, the Motor Carrier believes it should not be held liable for the two slid flat tire invoice repairs.

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

The Equipment Provider responded to the Motor Carrier's claim stating that it appears that the Motor Carrier is not disputing the damage to the tires but the process in which they are receiving the invoices. The Equipment Provider further states that it contacted IANA and provided additional photos to IANA to verify that the Equipment Provider supplied all required information in responding to the claim. The Equipment Provider received the following response from IANA:

"The UIIA does not address the specific documentation that must be provided with the repair billing other than a copy of the repair bill and if this is not available then documentation containing the specific items outlined in E.3.a.(2) that ties the documentation to the invoice would be required. Please note however that E.3.a.(2) also states that the Equipment Provider will provide factual documentation that supports why they believe the Motor Carrier is responsible for the repair. Absent such evidence or if the Motor Carrier feels that the Equipment Provider has not provided sufficient evidence to support the billing, then they can dispute the billing with the Equipment Provider. Should there be no resolution with the Equipment Provider, the Motor Carrier would then have the option to take the matter to binding arbitration. If submitted for arbitration, then the arbitration panel would render its decision on the responsibility of the charges based on the evidence presented by both parties and the terms/conditions of the UIIA."

Therefore, the Equipment Provider stands on its position that all required information set forth in Section E.4.c., Exhibit C, and the Supplement to Exhibit C of the UIIA was provided to the Motor Carrier on the initial invoice and both invoices should stand.

DISCUSSION:

After careful review of all documents and evidence submitted by the parties, the panel finds in favor of the Equipment Provider. The Motor Carrier is disputing two invoices from the Equipment Provider for slid flat tires.

The Motor Carrier bases its dispute on Exhibit C and the Supplement to Exhibit C of the UIIA. While Exhibit C is applicable to the Motor Carrier's responsibility for tire damage, the Supplement to Exhibit C of the UIIA was intended to provide Motor Carriers with an alternative to returning the physical tire carcass when tire repair or replacement is needed. The Supplement to Exhibit C outlines the photographic evidence and tire marking criteria to be followed. This evidence is used to validate invoices submitted by Motor Carriers to Equipment Providers, however, it is not required of Equipment Providers to submit invoices to Motor Carriers.

Photographic evidence of the tires upon ingate was available but not provided by the Equipment Provider with the initial invoice. The photos were provided after the Motor Carrier disputed the invoices. According to Section E.3.a.(2) of the UIIA, "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 factual documentation supporting the Provider's determination that the Motor Carrier is responsible." Section E.3.a.(2) goes on to state "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."

Recorded Images of the ingate were available, and the Equipment Provider used those images to depict the condition of the equipment upon ingate, but the photographs were not initially provided to the Motor Carrier. The invoices as initially provided were not in compliance with Section E.3.a.(2) of the UIIA. If recorded images are available, they must be provided to the invoiced party for validation. While the initial invoices were not in compliance with Section E.3.a.(2) of the UIIA, photographs were later provided that met the criteria needed for valid invoicing. The photographs clearly show flat spot damage to 2/32 inches of remaining tread depth or less on the tires in both disputed invoices. Therefore, the panel finds in favor of the Equipment Provider.

*Note the arbitration panel also finds it important that this information is timely communicated to the Equipment Provider and Motor Carrier on future invoices.

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.3. Damage to Equipment, Item E.3.a.(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]**

Section E.4. Tires

- a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**
- b. Repair of tires unrelated to Damage occurring during Motor Carrier's possession is the sole responsibility of the Provider, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**
- c. Photographic evidence shall be used for tire repair responsibility assignment. Photos of the tire will be produced by the road service provider based upon the stipulated criteria set forth in the Supplement to Exhibit C, Tire Marking and Photo Requirements of the UIIA. **[Added 08/01/18]**
- d. A Provider cannot require the Motor Carrier to return the physical carcass of a tire. **[Added 08/01/18]**

Exhibit C to UIIA, Tires

Tire sidewall, shoulder and/or tread cut/punctured/damaged exposing belt material

Slid Flat Damage to tire and/or tube - removal of tread or rubber to 2/32 inches of remaining tread depth or less in the affected area (flat spot) while the remaining unaffected tread depth is more than 4/32 inches.

Run Flat Damage to tire and/or tube

Missing Tire, tube or rim

Supplement to Exhibit C of the UIIA

DECISION:

Based upon the supporting documents and evidence submitted, both panel members unanimously find in favor of the Equipment Provider on both of the disputed invoices. The Motor Carrier is responsible for repair invoices 3TH5575 and 3TH5473 in this dispute.

CASE REVIEWED AND DECIDED BY:

BEN BANKS
Motor Carrier Panel Member

ALBERT PEREZ
Rail Panel Member

In the Dispute Between

Appellant, and

Respondent.

Case Number: **20210915-49-CNRP-MR-TR**

Date of Decision: **March 14, 2022**

Invoice	Invoice #	Equipment #	Inv. Date	Amount	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	314820614	LSFZ 531385	07/30/2021	\$179.80	Yard Center- Dolton /Global 2	05/12/21	05/26/21	07/30/21	08/02/21	08/31/21	09/15/21

The Motor Carrier is basing its dispute on Sections D.2.a., D.3.e, E.4.a., Exhibit A and Exhibit C of the UIIA. The Motor Carrier disputed the invoice stating that it was a cross-town move dispatched to the Motor Carrier by Norfolk Southern (NS). The unit outgated at the NS 49th (AGS gate facility) and ingated at the UP/Global 2 (AGS gate facility) on 05/26/21. The Equipment Provider provided ingate AGS images from UP/Global 2 showing a “U” shaped line/mark, LOF cut/torn tire. The Motor Carrier disputed the invoice by providing the Equipment Provider copies of a previous AGS gate image from the same day, 05/26/2021 at 3:00 am, with a different Motor Carrier ingating at a Norfolk Southern yard. The Motor Carrier believes it is the same exact damage shown on the AGS image provided by the Equipment Provider proving it was pre-existing damage. However, the Motor Carrier stated that the Equipment Provider declined its dispute stating that the Motor Carrier did not prove pre-existing tire damage. The Motor Carrier feels that the unit was returned in the same condition it was taken out, reasonable wear and tear excepted, pursuant to Section D.3.e of the UIIA. Therefore, the Motor Carrier believes it is not responsible for the charges on the invoice.

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

The Equipment Provider did not respond to the Motor Carrier's claim, but it responded to the Motor Carrier's dispute stating, "a cut in the shape of "U" or "L" can be seen on the ingate photo without proof [of] pre-existing damage". Therefore, the Equipment Provider feels that the damage is the responsibility of the Motor Carrier, and the invoice should stand.

DISCUSSION:

The panel carefully reviewed all documents and evidence submitted by the parties. Based upon the supporting documents and evidence submitted, the panel's opinion is that the Equipment Provider provided evidence that the LOF tire on the photograph image LSFZ 531385 was ingated to UP-G2 on May 26, 2021 by the Motor Carrier with a cut however, the photograph image showing the condition of LSFZ 531385 outgating from NS 49th Street on May 26, 2021 was dark and therefore inconclusive. The Motor Carrier provided clear photograph evidence that the LOF tire on LSFZ 531385 had the same cut earlier the same day at 3:00 am on May 26, 2021. The panel agrees that the evidence of the photograph image provided by the Motor Carrier supports its claim of pre-existing damage pursuant to Section D.2.a. and D.3.e. of the UIIA. Therefore, the Motor Carrier should not be held responsible for the tire damage.

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 D.2. Equipment Interchange Receipts, Item D.2.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]**

Section D.3. Equipment Condition, Item D.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. **[Revised 06/13/16]**

Section E.4. Tires, Item E.4.a.

Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**

Exhibit A to UIIA, Motor Carrier Pre-Trip Inspection

Exhibit C to UIIA Tire Marking and Photo Requirements/Criteria (Added 08/01/18)

**Supplement to Exhibit C of the UIIA: Tire Marking and Photo Requirements/Criteria
(Added 08/01/18)**

DECISION:

The panel unanimously finds in favor of the Motor Carrier. The Motor Carrier is not responsible for the repair of pre-existing damage to the tire and the repair invoice in the amount of \$179.80.

CASE REVIEWED AND DECIDED BY:

PETER SCHNEIDER
Motor Carrier Panel Member

GORDON GRAHAM
Rail Panel Member

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

In the Dispute Between

UIIA MC, **Manchester Motor Freight**

Appellant, and

UIIA EP, **CSX Intermodal Terminals, Inc.**

Respondent.

Case Number: **20230322-6-MNCM-MR-TR**

Date of Decision: 08/16/2023

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICES:

	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	3UB5391	LSFZ536162	2/16/2023	Worcester	12/28/22	12/29/22	2/16/23	3/8/23	3/20/23	3/22/23
2	3UA5574	DDRZ959353	1/31/23	Springfield	12/14/22	12/19/22	1/31/23	2/13/23	2/13/23 or 3/14/23	3/22/23

***Note: Invoice 3UB5388 under this claim was resolved between the parties and removed from the claim. For Invoice 3UA5574, the panel will need to determine when the 15-day clock started for the MC to submit the claim. MC believes there was on-going discussion and actual clock for submitting arbitration claim started on 3/14/23.**

MOTOR CARRIER'S BASIS OF DISPUTE

The Motor Carrier dispute is based on Sections E.3.a(2), E.4.c., and Exhibit C of the UIIA, in that Motor Carrier is being charged for the repair of slid flat tires that it did not cause. For invoice 3UB5391, the Motor Carrier was invoiced for slid flat on the LOR in the amount of \$00.00. The Motor Carrier does not believe the images provided by the Equipment Provider clearly evidence that there is a slid flat on the tire based on definition of slid flat in Exhibit C of the UIIA. The image does not show a clear flat spot that is less than 2/32 inches of tread. The Motor Carrier indicates that it believes the images show a tire that is completely roadworthy. In support of this fact, the Motor Carrier indicates that this chassis was used by another Motor Carrier after it was ingated on December 29, 2022. The unit was outgated again on January 3, 2023 from CSX Worcester and returned to the CSX Springfield terminal on January 5, 2023. After the ingate, the chassis was utilized three additional times before the repair took place on January 31, 2023. Consequently, the Motor Carrier believes that the Equipment Provider did not provide sufficient factual documentation to support its invoice and that the slid flat does not meet the definition set forth Exhibit C so the invoice should be cancelled.

For invoice 3UA5574, the Motor Carrier was invoiced for slid flat on LOR in the amount of \$00.00. The Motor Carrier does not believe the images provided by the Equipment Provider clearly evidence that there is a slid flat on the tire based on the definition of slid flat in Exhibit C of the UIIA. The picture shows existing tread grooves and tread blocks and does not show a clear slid flat less than 2/32 inches of tread. Motor Carrier believes the

tire is roadworthy and supporting this is the fact that the chassis was used by another Motor Carrier after it was ingated on December 19, 2022. The unit was outgated again on December 21, 2022 and returned on December 28, 2022, which is the last time it was used before the repair was done. Consequently, the Motor Carrier believes that the Equipment Provider did not provide sufficient factual documentation to support its invoice and that the slid flat does not meet the definition set forth Exhibit C so the invoice should be cancelled. Additionally, on this specific invoice, the Motor Carrier believes there was on-going discussion with the Equipment Provider related to this dispute and that the Equipment Provider's response to start the 15-day timeclock for submitting the claim for arbitration did not start until the e-mail from the Equipment Provider, dated March 14, 2023.

EQUIPMENT PROVIDER'S RESPONSE TO MOTOR CARRIER'S DISPUTE

The Equipment Provider states that, for invoice 3UB5391, the Motor Carrier indicated that this invoice was for a slid flat on the LOR, which is incorrect. The invoice is for the LIR. The Equipment Provider also disagrees with the Motor Carrier's opinion that the chassis was roadable since it was used several times after the Motor Carrier returned it. This is an incorrect assumption. Just because a chassis has a defect, that does not mean that a driver will not still pull the chassis. The Equipment Provider believes this invoice is valid as billed as the Motor Carrier returned the tire with slid flat tire damage as evidenced by the images provided and the definition of slid flat in Exhibit C.

For invoice 3UA5574, the Equipment Provider states that the Motor Carrier indicated that this invoice was for a slid flat on the LOR, which is incorrect. The invoice is for the ROR. The Equipment Provider also disagrees with the Motor Carrier's opinion that the chassis was roadable since it was used several times after they returned it. This is an incorrect assumption. Just because a chassis has a defect, does not mean that a driver will not still pull the chassis. The Equipment Provider also noted that there were two slid flat tires (RIR/ROR) and the Motor Carrier was only billed for the ROR because Equipment Provider did not have the photo evidence on the RIR tire. The images provided show the slid flat spot in relation to the writing on the tire, both on the ingate photos as well as the repair photos. There is also a second point of reference on the rim, where it looks like some sort of debris. This can also be seen in one of the ingate photos and in two of the repair photos. The Equipment Provider indicated that it helps to identify the slid flat spot. The Equipment Provider believes this invoice is valid as billed as the Motor Carrier returned the tire with slid flat tire damage as evidenced by the images provided and the definition of slid flat in Exhibit C.

DISCUSSION

The panel has carefully reviewed all documents and evidence submitted by the parties. While slid flat damage is apparent on photos provided for both invoices, they have markings of "0/32". While tire depth is difficult to determine from photos, one can conclusively confirm that both tires still have remaining tread left. Additionally, both replaced tires have significant normal wear, apparently close to the requirements in Exhibit C of more than 4/32". Finally, as the Motor Carrier pointed out, both chassis were utilized multiple times after ingate, so the damage did not prevent the intended use of the equipment and thus does not constitute damage as defined in the UIIA. The Equipment Provider disagrees. However, if the Equipment Provider has evidence that damage exists, it is prudent that the Equipment Provider address the known issues timely. It did not do so in this instance. Therefore, the panel find in favor of the Motor Carrier.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL

The panel relied upon the following provisions from the UIIA (July 20, 2022) to make its decision:

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]**

4. Tires

c. Photographic evidence shall be used for tire repair responsibility assignment. Photos of the tire will be produced by the road service provider based upon the stipulated criteria set forth in the Supplement to Exhibit C, Tire Marking and Photo Requirements of the UIIA. **[Added 08/01/18]**

Exhibit C of the UIIA – Tires – Slid Flat Damage

Slid Flat Damage to tire and/or tube - removal of tread or rubber to 2/32 inches of remaining tread depth or less in the affected area (flat spot) while the remaining unaffected tread depth is more than 4/32 inches.

DECISION

The panel finds in favor of the Motor Carrier based on Section E.4.c and Exhibit C of the UIIA. The chassis were used multiple times after ingate and the photos are not conclusive enough to confirm "Slid Flat Damage" as identified in Exhibit C. Therefore, the invoices are not valid under Section E.3.a.(2) and the Motor Carrier is not responsible for the charges billed.

CASE REVIEWED AND DECIDED BY

BEN BANKS
Motor Carrier Panel Member

STEVEN CHAVEZ
Rail Panel Member