

**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: **20200701-7-XXA-MR-OTH**

Date of Decision: **August 24, 2020**

**THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICES:**

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	306960070	EMHU 652984	5/28/2020	Global 2/Global 2	5/12/2020	5/15/2020	5/28/2020	5/29/2020	6/27/2020	7/1/2020

**MOTOR CARRIER'S BASIS OF DISPUTE:**

The Motor Carrier is basing its dispute on Section D.3.e. and E.3.a.(2) of the UIIA. The Motor Carrier disputed the charges with the Equipment Provider, which included providing the outgate AGS image that the Motor Carrier believes proves the damage being billed was pre-existing. The MC also disputes the fact that the invoice indicated that the damage was noted as "RSF" (right side front) when in fact the damage was on the "LSF" (left side front). However, the Equipment Provider did not accept or agree that the damage was pre-existing and felt that the invoice was valid regardless of the typo on the invoice. The Motor Carrier feels that they returned the equipment in the same condition, reasonable wear and tear excepted and believes that they are not responsible for the charges being billed.

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

The Equipment Provider responded to the claim indicating that when their M&R managers reviewed the dispute, the AGS gate images did show that the repair code used identified the wrong side of the unit for the repair. The M&R managers reviewed the left side of the unit via the AGS gate image and found that there was additional damage to the unit (three panel cuts at same location as per the repair photos) that only showed on the ingate images. Apart from the location coding error, the Equipment Provider feels that the invoice is valid as billed.

## **DISCUSSION:**

The panel carefully reviewed all documents and evidence submitted by the parties. Based upon the supporting documents and evidence submitted, both panel members thought while there appears to be new damage to the container upon ingate, the ingate picture is of a higher resolution and the damage on the outgate is not clearly visible. Furthermore, the Motor Carrier had a valid point that any potential damage to the loaded container would have been extremely difficult to recognize from ground level. The supposed damage after outgate coincidentally occurred on and just behind a recently patched area. The more recent damage was consistent with the previous damage and the previous damage appeared to be patched with caulking rather than a new sheet. It was the panel's opinion, that a repair vendor would go ahead and address all cuts and not leave unpatched holes, further supporting the fact that damage occurred after the initial patch, but that cannot be confirmed with the information or pictures provided. However, the Equipment Provider did see it sufficient to caulk the prior holes, rather than completely replacing the sheet metal, so the Motor Carrier should be expected to be responsible for similar repairs, but not for new sheet metal that addresses the prior damage. The panel members indicated that had the initial damage been properly repaired, it is also possible that the increased structural integrity would have prevented the alleged new damage. Based on the specific circumstances surrounding the case and the supporting documentation presented by both parties, the panel rendered a split decision. Both panel members agreed that the Equipment Provider should be held responsible for 75% of the disputed charges and the Motor Carrier held responsible for 25% of the charges.

## **UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:**

**The panel relied upon the following provisions from the UIIA (January 20, 2020) to make its decision:**

### **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]**

## **DECISION:**

The panel unanimously finds for a split decision in this case. The Equipment Provider is responsible for \$00.00 (75% of disputed charges) and the Motor Carrier is responsible for the remaining balance of \$00.00 (25% of total charges).

**CASE REVIEWED AND DECIDED BY:**

BEN BANKS

Motor Carrier Panel Member

MIKE PAGEL

Rail Panel Member

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

In the Dispute Between )

UIIA MC, )  
Appellant, and )

UIIA EP, )  
Respondent )

Case Number: **20191204-44-XXXP-MR-TR**

Date of Decision: 02/18/2020

**THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICES:**

Invoice	Invoice #	Equipment #	Inv. Date	Facility	Outgated	Ingated	Date MC rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute	Notice of Intent Rec'd
1	1800111549	TSFZ563633	10/24/19	CP (non-AGS)/UP (AGS)	6/10/19	6/10/19	10/24/19	11/13/19	11/20/19	12/4/19
2	1800111547	NSPZ155362	10/24/19	CP (non-AGS)/UP (AGS)	6/24/19	6/24/19	10/24/19	11/13/19	11/20/19	
3	1800111552	TSXZ563857	10/24/19	CP (non-AGS)/UP (AGS)	8/4/19	8/4/19	10/24/19	11/13/19	11/20/19	
4	1800111553	TSFZ564206	10/24/19	CP (non-AGS)/UP (AGS)	7/3/19	7/3/19	10/24/19	11/13/19	11/20/19	
5	1800111554	TSFZ49612	10/24/19	CP (non-AGS)/UP (AGS)	6/22/19	6/22/19	10/24/19	11/13/19	11/20/19	
6	1800111551	TSXZ903192	10/24/19	CP (non-AGS)/UP (AGS)	6/7/19	6/7/19	10/24/19	11/13/19	11/20/19	
7	1800111550	TSXZ991167	10/24/19	CP (non-AGS)/UP (AGS)	6/22/19	6/22/19	10/24/19	11/13/19	11/20/19	
8	1800111546	NSPZ146390	10/24/19	CP (non-AGS)/UP (AGS)	8/13/19	8/13/19	10/24/19	11/13/19	11/20/19	

## **MOTOR CARRIER'S BASIS OF DISPUTE:**

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

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

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

## **DECISION:**

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

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

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

**UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:**

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

**B. Definition of Terms**

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

**D. Equipment Interchange**

2. Equipment Interchange Receipts
  - a. At the time of Interchange, the Parties or their agents shall execute an Equipment Interchange Receipt and/or exchange an electronic receipt equivalent, which shall describe the Equipment and any Damage observable thereon at the time of Interchange, reasonable Wear and Tear excepted. The physical condition of the Equipment may be described by either Party within the EIR or via Recorded Images taken at the time of Interchange. **[Revised 05/12/10]**

**D. Equipment Condition**

3.
  - e. Motor Carrier will Interchange the Equipment to the Provider or another Motor Carrier that is authorized for Interchange by that Provider, in the same condition, reasonable Wear and Tear excepted.

**E. Equipment Use**

3. Damage to Equipment

- a. Motor Carrier shall pay to Provider the reasonable and customary costs to repair Damages done to Equipment during Motor Carrier's possession. **[Revised 09/01/09]**
  - 2) To be valid, invoices must detail the repairs done; include a copy of the actual repair bill upon which the invoice is based and include the factual documentation supporting the Provider's determination that the Motor Carrier is responsible. In instances where a copy of the actual repair bill is not available to Provider, documentation containing the repair vendor's name, repair date, location and a control number that ties the documentation to the invoice provided to the Motor Carrier is acceptable, in lieu of the actual repair bill. In the case of a gate transaction using Recorded Images such documentation must include images depicting the condition of the Equipment at the time of that Interchange. **[Revised 10/01/18]**

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

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

**CASE REVIEWED AND DECIDED BY:**

TIM MOORE  
Rail Carrier Modal Panel Member

CHRIS GILTZ  
Motor Carrier Modal Panel Member

**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: **20200930-2-XXXS-MR-OTH**

Date of Decision: 11/10/2020

**THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICES:**

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	308305815	EMHU642363	8/14/20	UP Global 4/UP Global 4	7/16/20	7/16/20	8/14/20	8/20/20	9/18/20	9/30/20

**MOTOR CARRIER'S BASIS OF DISPUTE:**

The Motor Carrier's dispute is based on Section D.3.e. and E.3.a. of the UIIA. The Motor Carrier disputed the charges with the Equipment Provider, which included providing the outgate AGS image that the Motor Carrier believes proves the damage being billed was pre-existing. However, the Equipment Provider did not accept or agree that the damage was pre-existing and felt that the invoice was valid. The Motor Carrier feels that they returned the equipment in the same condition, reasonable wear and tear excepted, and believes that they are not responsible for the charges being billed.

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

The Equipment Provider did not respond to the claim but did respond to the Motor Carrier's original dispute of the charges. The Equipment Provider believes that the driver would have been able to see the damage from outside of the container and feels that the driver should have noted it on the outgate EIR if they felt that the damage was old damage.

## **DISCUSSION:**

The panel carefully reviewed all documents and evidence submitted by the parties. The Equipment Provider's denial of the Motor Carrier's dispute was based on the belief that the Motor Carrier's driver should have seen and reported the damage at outgate. After review of the invoice and corresponding pictures, it also appears that the invoiced "SIDE PANEL STEEL" for \$00.00 was repaired, not replaced. The pictures at outgate are not of high enough resolution to see tears, but dents are visible. The outgate images indicate pre-existing damage to the unit. The pictures taken at the time of repair show rust around holes of the repaired areas and the rust is dark, flaky and aged, not congruent with flash rusting from a recent damage. The pictures appear to be taken while the repair was underway as fresh grinder marks surround the damage, signifying repair personnel were cleaning the area. The pictures also show the repair was made with a black sealant. In addition, given the location of the subtle damage on the unit, and the fact that the unit was loaded would have made it very difficult for the Motor Carrier's driver to have detected the damage and report it upon outgate. The panel members agree that the damage was pre-existing old damage, and the repairs made were not consistent with the invoiced repairs.

## **UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:**

The panel relied upon the following provisions from the UIIA (January 20, 2020) to make its decision:

### **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.**

Motor Carrier shall pay to the Provider the reasonable and customary costs to repair Damages done to Equipment during Motor Carrier's possession. **[Revised 09/01/09]**

## **DECISION:**

The panel unanimously finds in favor of the Motor Carrier based on the facts that the damage was pre-existing old damage and the repairs made were not consistent with the invoiced repairs.

## **CASE REVIEWED AND DECIDED BY:**

BEN BANKS  
Motor Carrier Panel Member

MIKE PAGEL  
Rail Panel Member



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

The Equipment Provider responded to the claim stating that there are two methods for outgating a unit at their rail facilities. The driver can elect to use the mobile application, or the driver can use the Self-Service Kiosk (SSK). The Equipment Provider stated that drivers can note damage prior to outgate on their own using either method with no intervention necessary from a railyard employee or representative. The unit outgated at a non-AGS facility which does not record images at outgate but provides the Motor Carrier the ability to record electronically the condition of the equipment at the time of interchange. The Equipment Provider stated in this case there was no damage noted at outgate, and the driver elected to use the SSK to outgate the unit. The Equipment Provider also stated that the unit ingated in Baltimore, MD without damage, departed the gate at Chicago 59<sup>th</sup> Street with no documented damage noted on the EIR, and returned to Bedford Park damaged in violation of Section D.3.e. of the UIIA. It is the driver's responsibility to report any damage to the unit. The Equipment Provider believes that the language at the bottom of the J1 is consistent with UIIA guidance in Section D.2.b. and stated that they only have three terminals that are equipped with outgate AGS systems (Bedford Park, Columbus, and Northwest Ohio). Therefore, the Equipment Provider feels that 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 members concur that pursuant to Section D.3.b of the UIIA, Motor Carrier drivers are required to conduct a pre-trip inspection prior to departing with interchanged equipment, and pursuant to Section D.2.a, any damage observed to the equipment shall be noted on an Equipment Interchange Receipt. Damage to this unit is clearly visible. If the damage was a pre-existing condition as the Motor Carrier suggests, then it should have been detected on the pre-trip inspection and noted on the interchange receipt. The allegation that damage could not have happened while the unit was in possession of the Motor Carrier because of the timing of the cargo delivery is relatively baseless since the damage could have occurred at any point during the 14 days between when the unit was out-gated on 9/8/2020 and when it was in-gated on 9/22/2020. Given the facts presented in the case, both panel members agree that the Motor Carrier is responsible for the container damage and the repair charges of \$00.00.

## **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.2. Equipment Interchange Receipts, Item D.2.b.**

Use of electronic EIRs requires that the Provider or the Facility Operator provide an electronic system whereby the Motor Carrier may describe electronically, the condition of the Equipment at the time of Interchange, without substantially burdening the Motor Carrier's use of electronic EIRs at the same Premises, and that this information be incorporated as part of the electronic EIR. **[Revised 09/16/17]**

**Section D.3. Equipment Condition, Item D.3.b.**

Motor Carriers will conduct a pre-trip inspection prior to departing with interchanged Equipment that will include those items set forth in Exhibit A **[Item 8 Tires]** to this Agreement. **[Item Re-numbered 10/01/18]**

**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]**

**DECISION:**

The panel unanimously finds in favor of the Equipment Provider. The Motor Carrier is responsible for the container damage and repair invoice in the amount of \$00.00.

**CASE REVIEWED AND DECIDED BY:**

BEN BANKS  
Motor Carrier Panel Member

MIKE PAGEL  
Rail 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