



support, was filed.<sup>2</sup> This enabled the defendant to review, evaluate, and respond to both the Petition for Reconsideration and the Intervenors' comments in a single filing. In contrast, AAR has filed its Petition on the very day that TPI's reply to CSXT's Petition for Reconsideration was due, which is over a month after CSXT filed its Petition on June 20, 2013. AAR makes no attempt to justify the tardiness of its filing or address the prejudice to TPI.

AAR's tardiness is all the more inexcusable because the LPM was originally adopted in an entirely different proceeding in which AAR did participate at the invitation of the Board. M&G Polymers USA, LLC v. CSX Transp., Inc., Docket NOR 42123 (served Sept. 27, 2012). Moreover, CSXT is a member of AAR and surely AAR cannot, nor does it, claim to have been unaware of the Board's use of the LPM in this proceeding. Therefore, AAR had ample time to determine its interest in this proceeding and prepare comments on the LPM that could have been filed contemporaneous with the CSXT Petition.

Furthermore, the comments that accompany the AAR's Petition are largely repetitive of its M&G comments, which the Board has considered and rejected in this case. They also are largely repetitive of CSXT's Petition for Reconsideration. Consequently, AAR cannot claim that the rail industry perspective on the LPM has been inadequately represented or that AAR offers any different perspective. Therefore, the Board should deny the AAR Petition.

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<sup>2</sup> A search of all filings in this docket on the Board's web site reveals this fact.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that this 26th day of July 2013, I served a copy of the foregoing upon counsel for defendant CSXT via electronic mail, and first-class mail postage pre-paid at the address below:

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