SP MANWEB

The North Wales Wind Farms Connection Project

SP Manweb's Responses to Second Written Questions Submissions

Application Reference: EN020014

Deadline 7 Submission
3rd December 2015

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The Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

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Deadline 7 Submission

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SP Manweb Response to Late DL4 Response from Robin Barlow	
Robin Barlow Response	**SP Manweb Response**
Lifetime Costs Report It is interesting to compare the cost of undergrounding with the subsidies handed out for Green energy. Suggests SPM receives a proportion of ROCs subsidy which could be used to offset cost of undergrounding cable. The figures provided are approximate, but large compared to the cost of undergrounding. Equally SPM has chosen not to open up on these matters in its consultation.	Subsidy for renewable energy is a matter between the relevant wind farm developer and the Department for Energy and Climate Change. SP Manweb does not receive any element of the ROCs subsidy.

SP Manweb Response to Late DL4 Response from Robin Barlow	
Robin Barlow Response	**SP Manweb Response**
Single pole design Comments on single pole design and Legacy to Oswestry line. SP Manweb states *that in the recently constructed Legacy to Oswestry Trident line some 20km in length 22% (38) of the structures were of double pole design*". This proves my point that usually (78%) it is a single pole. SP Manweb states that *any redesigning and strengthening of the steel members into a slimmer version is likely not to meet these requirements*. This will be dependent on the materials and assembly processes implemented. Comments on SPM statements to Llandinam inquiry. SPM confirms that such a solution, incorporating a RES, would be technically feasible at a broadly comparable cost. Given that a Trident line is much less intrusive than a HDWP. Scottish Hydro already has production systems running	Trident pole lines are constructed of single or double pole, dependent on route, terrain, altitude and weather. The reference to Legacy Oswestry line containing 22% was to indicate that the number of double pole structures is not an insignificant number, on this relatively low altitude line. The HDWP design has been specifically designed to incorporate an earth wire and designed to BS EN 50341. The steelwork and its assembly have been specifically designed to the parameters as set out under this specification. A part unearthed / earthed overhead line has not been considered due to the very high measured resistance at the substation. An earthed connection directly connecting the St Asaph earth system to the Clocaenog earth system is the most effective means to further reduce the anticipated Rise Of Earth Potential at the proposed Clocaenog substation site which benefits from an extensive earth

with these cables (ST Fergus to Peterhead on a Trident at 132Kv) and of course subcontractors (Norpower) that can install them.	system comprising its own large buried earth mat which is connected to several other grid and primary substations via earthed lattice pylons and cables. It would be impracticable to establish a remote earth compound that has equivalent low impedance to St Asaph grid. In the Llandinam case where the existing Welshpool to Oswestry circuit that the new line would connect into was unearthed, a question arose if it was feasible to establish a remote earthing compound between Llandinam and Welshpool to limit the length of the proposed earthed OH line installation. The Llandinam Inquiry Inspector concluded in paragraph 476 that such a solution still retained landscape and visual impacts on the section beyond a compound site and would result in considerable time constraints and uncertainty. HTLS is not a standard SP Manweb design solution at this moment in time but might be considered in future if trials are successful.

SP Manweb Response to Eifion Bibby’s Response to SWQ 0.3	
Eifion Bibby’s Response	**SP Manweb Response**
Refers to Eifion Bibby's submission to the ExA on 13 November 2015	Please refer to Deadline 7 SPM NWWFC RSIPD5 for responses.

SP Manweb Response to Eifion Bibby's Response to SWQ 8.1	
Question 8.1 In the Appendices to SP Manweb's Responses to First Written Questions, (PINS Document Library reference [REP1-082]), the Updated Outline Construction Environmental Management Plan v2 (September 2015), paragraph 3.3.2 (second bullet point), states, "Replanting of trees would be partially undertaken as secondary mitigation and partially by agreement with landowners". Please could the Applicant expand on this statement especially explaining how a reluctant landowner would be accommodated.	
Eifion Bibby's Response	**SP Manweb Response**
Furthermore it is reaffirmed (in item 2.7.4 of the Hedgerow Management Plan) that Hedgerows would need to be laid between years 10-15. Although the applicant refers in the associated, attached, response, to SP Manweb accepting responsibility for such costs we note that earlier in the same document it is stated that maintenance obligations would apply for a minimum of 5 years (unless required by the Local Authority). Therefore we are uncertain as to what provisions would apply to obligate the applicant to be responsible for costs of laying hedges in the event of the	The Hedgerow Management Plan (Examination Library Reference APP-120) sets out requirements in relation to hedgerows and planting. This includes a requirement to lay hedgerows at between 10 and 15 years, regardless of any maintenance period that may be specified by the Local Authority. Requirement 13 of the DCO obliges the Applicant to implement the Hedgerow Management Plan, and as such the Applicant is obliged to undertake the actions specified therein, including the requirement to lay hedgerows at between 10 and 15 years. The Applicant will therefore be responsible for the costs of laying hedges, and of implementing the other requirements of the

Local Authority not specifying a requirement for a maintenance period of, for instance, 15 years.	Hedgerow Management Plan.

<table>
<tr><td colspan="2">SP Manweb Response to Eifion Bibby’s Response to SWQ 11.1a</td></tr>
<tr><td colspan="2">Question 11.1a
The Panel has prepared a schedule of Interested Parties and Affected Persons that have objected to the compulsory acquisition (CA) of rights over land in their representations. The Panel proposes to keep this schedule updated during the remainder of the Examination.
11.1 a) Affected Persons that have objected to the compulsory acquisition (CA) of rights over land in their representations.</td></tr>
<tr><td>Eifion Bibby’s Response</td><td>SP Manweb Response</td></tr>
<tr><td>Mr Bibby has marked up the table provided by the ExA with details of the affected persons that he represents.</td><td>SP Manweb has reviewed the annotated table prepared by Mr Bibby in response to Second Written Question 11.1(a). As the Examining Authority are aware, SP Manweb has already submitted an annotated version of this table for Deadline 6. This table prepared by SP Manweb for the Examining Authority for Deadline 6 is correct. Mr Bibby has annotated the version of the table provided by the Examining Authority as part of their Second Written Questions. Mr Bibby’s comments are acknowledged and several minor discrepancies have been outlined in this response. References provided are in relation to the table submitted by Mr Bibby:

1) Row 2 – Mr Bibby has added AA Owen as an Interested Party</td></tr>
</table>

	Name. As RR-071 only references CA Owen, it is SP Manweb's view that it is not necessary to insert such an interest into this row. AA Owen's interest is summarised in Row 14 of the table. 2) **Row 8** – David Gwynfryn Davies does not have an interest in plot 12, which is where pole 26 is located. As such, it is SP Manweb's view that pole 26 should not be referenced next to this interest. 3) **Row 12** – Mr Bibby has included DC Jones and AL Jones within this Row. SP Manweb's view is that this is already included within Row 13 and it is not necessary to insert this into another Row, as all interests have already been reflected in the annotated table provided by SP Manweb. 4) **Row 15 -** Mr AA Owen has been included within this Row 15, however SP Manweb consider this interest is already fully documented in Row 14, as already explained. Furthermore, Mr Bibby lists pole 188 (plot 98), albeit this pole is not located within AEM Owen's land. 5) **Row 20 –** Mr Bibby has written that poles 204-213 are those poles on the land of EW, PA and EW Hughes. SP Manweb considers that this is not correct; the Hughes do not have any interest in relation to these poles. Such poles listed do not match the plot numbers included by Mr Bibby.

<table>
<tr><td colspan="2">SP Manweb Response to Dewi Parry Response to SWQ 0.2</td></tr>
<tr><td colspan="2">Question 0.2
Please could the Applicant, Interested Parties and Affected Persons provide details of requests that were made to the applicant for the pole locations that were proposed in the original application (Option A) to be moved, where these requests could not be accommodated within Option B, and provide the reasons why these requests were made and why they could not be included in Option B.</td></tr>
<tr><td>Dewi Parry’s Response</td><td>SP Manweb Response</td></tr>
<tr><td><u>Pole 64, (Land Plot 27)</u>
Prior to Option B we had requested that the Applicant look at relocating pole 64 further eastward
for the following reasons:
• It is on valuable land that is cultivated.
• The pole contains 4 stays that would interfere with cultivation and with hedge maintenance in its current position.
• It is sited very close to a waterway, a point already covered in my Deadline 5 submission and the subject of the Examiner's action 14 from Day 1 ISH.</td><td>The suggested new position of pole 64 to the field boundary has been partially accepted into Option B, with the pole moving as close to the field boundary as possible taking in to account the position of stays crossing in to the adjacent field boundary.

SP Manweb refers to page 7 of the Table of Landowner Suggestions (Examination Library Reference REP6-022) which outlines SP Manweb's reasons for not relocating the pole as far east as requested.</td></tr>
</table>

• It may be possible to reposition it to adjacent grazing land that is not cultivated due to the steeper slope; however this would be subject to Mr Davies the owner of the adjacent land being happy with such an arrangement. Our request to move the pole was not accommodated within Option B. Our request was verbally rejected by the Applicant citing insufficient height clearance for the line due to the rise in the landform towards pole 63. This explanation was not entirely clear to us but in order to try to accommodate the Applicant's supposed clearance problem we suggested that we could possibly accept an extended height pole in this particular location. If clearance really is the issue the greater visual impact of an additional 1 or 2 metres in height for this pole would be more acceptable to us than the detrimental effect of the current pole location. As yet we have not received a response or any further clarity from	

the Applicant. Pole 64 has in fact been repositioned in Option B, but not to accommodate our wishes. The Option B pole location was to accommodate other changes made by the Applicant elsewhere along the route. Option B pole 64 position appears even closer to the waterway than Option A, contrary to the Applicant's own 10m stand-off rule.	
Pole 69 (Land Plot 29) Option B has resulted in a repositioning of pole 69 closer to the B4501 road. The new location was not to accommodate our wishes. In the issue specific hearings the Applicant described how they had *"utilised a small hollow in the landform on the B4501 to limit views of the line".* It appears that they were describing the new Option B position for the pole rather than Option A. We had requested that pole 69 be sited such that a road gateway in the northwest corner of the field (plot 29) would	The suggested new position of pole 69 to the field boundary has been partially accepted into Option B, with the pole moving as close to the field boundary as possible taking in to account the position of stays crossing in to the adjacent field boundary. SP Manweb refers to page 7 of the Table of Landowner Suggestions (Examination Library Reference REP6-022) which outlines SP Manweb's reasons for relocating the pole closer to the gateway. Mr Parry has made similar submissions in relation to the "small hollow" in his Deadline 5 submission. SPM is responding to these representations which will be submitted for Deadline 7.

be freely and safely accessible and that farm machinery had room to manoeuvre in and out of the field. Unfortunately Option B positions the pole even closer to the gateway. It is considered problematic as pole 69 has 4 stays, the precise position of which the Applicant has yet to verify. The gateway cannot be repositioned further to the south due to a rise in the relative levels of the field and road. The Applicant will need to confirm that should Option B be adopted the positioning of pole 69 and its stays will allow machinery to manoeuvre easily and safely to and from the gateway and that access for hedgecutting is not affected.	SP Manweb considers that the position of pole 69 in Option B would not interfere with the safe use of the gateway. However, if Mr Parry considers that the pole position would interfere with the gateway then SP Manweb would be happy to relocate the gateway to a mutually convenient position.
Viewpoint 5 photo shows pole 69 in the foreground. Option B position has the pole and stays further to the right towards the road. The gateway to the road is located in the corner (not visible).	Mr Parry has made similar representations in relation to viewpoint 5 in his Deadline 5 submission. SPM's response to these representations is set out in its Deadline 7 submission.

SP Manweb Response to Dewi Parry SWQ 0.5	
Question 0.5 Repositioning of poles 63 and 65. Do the LPAs and other Interested Parties agree with the Applicant's ERISOB, particularly in respect of the conclusions on landscape effects, visual effects and residential visual amenity effects. If not, why not?	
Dewi Parry Response	**SP Manweb Response**
It is considered that there would be increased LVIA effects through the movement of poles. Pole 63 would stand higher on the slope than previously and is likely to be more visible for College Farm residential receptors. Pole 65 position has changed and is at risk of coming into view of College Farm residential receptors Comfort is wanted relating to screening and vegetation.	As part of the Option B submission, Pole 63 has shifted south along the centre line of the alignment by approximately 9m and will sit slightly higher in the landscape. Pole 65 will shift by approximately 4m to the southwest of its original Option A location and will sit slightly lower in the landscape. Both poles remain within the assessed Limits of Deviation and remain backclothed by the rising landform. Pole 65 lies over 300m from College Farm bungalow and pole 63 over 430m from College Farm bungalow. As such the effects on residential visual amenity remain as assessed, minor. No landscaping proposals have been put forward in this area. Existing trees provide some screening and backclothing of the Proposed Development. This may

	mitigate some of the effects but will not alter the conclusions of the Landscape and Visual Impact assessment.

SP Manweb Response to Dewi Parry SWQ 4.8	
Question 4.8 'Shock Horror' states that if you wish to work near overhead power lines (OHPLs) you should use barriers or goalposts to limit access. It then goes on to describe how these features should be painted red and white so that they are highly visible. (a) Has the Applicant considered how many barriers and goalpost structures would be required along the length of the route? If not, why not? (b) Has the Applicant considered the visual impact arising from red and white goalposts along the length of the cable? If so, please could the paragraph number/document number details be provided? If not, why not? (c) Please could Affected Persons provide evidence to the Examination identifying where, in their view, if the development was consented, they would need to construct barriers and/or goalposts to mark the locations of the overhead wires to minimise the risk of tractors/sprayers/mobile plant and tipper lorries etc. coming into contact with the wires?	
Dewi Parry Response	**SP Manweb Response**
Span between Poles 64-65-66, plot 27. There could be a risk of a machine coming into contact with the overhead wires in the field at land plot 27 due to the woodland backdrop 100m away rendering wires less	SP Manweb has explained in its response to question 4.8 (Examination library reference REP6-035) that it will be the responsibility of the Principal Contractor to carry out risk assessments and the result of that risk assessment will determine what safety

visible to a machine operator located within the field. Vulnerability can be at any point on the 140m between poles 64 and 66. The woodland backdrop (on rising land) runs parallel approx. 100m southwest of the line and there are also rising landforms in two other directions that may also reduce wire visibility for machine operators. Moreover, risk in this location significantly increases later in the day as it is a small valley that is in comparatively deeper shadow in early evening. **Span between pole 68-69 and either side. Plot 29.** Although there is less backdrop and more skylining of wires the risk remains of some machinery coming into contact with wires. **Safety Measures.** We recognise the very severe risk posed by 132kV lines and from our understanding of the HSE guidelines, the provision and proper maintenance barriers and goalposts in line with the safety guidelines would be a very significant	measures, to ensure compliance with the GS6 Guidance, will be necessary. The issues identified by Mr Parry will be taken into account as part of the risk assessment and the Ex A can be confident that these issues will be considered and appropriate safety measures put into place as part of the construction works. It is entirely normal for the risk assessment not to have been undertaken at this stage prior to the development consent having been made. Further, SP Manweb notes that the Health and Safety document 'Working Safely near overhead electricity power lines', which was submitted as part of Deadline 4 specifically states: '*Where you cannot avoid working near OHPLs, you will need to carry out a risk assessment and implement a safe system of work…. Remember that risks increase at dusk, in darkness or in poor viability when it becomes harder for machine operators to see OHPLs.'* Therefore the approach that is proposed by SP Manweb is the same approach recommended by the guidance. Mr Parry has raised that the visual impact of the proposed safety measures has not been considered in the LVIA. SP Manweb's

challenge. In order to safely accommodate machinery such as loaders and crop sprayers with folding boom arms the two plots (27 and 29) would require safety features along the length of the wire span, i.e. two 140m spans of line. This is difficult to achieve in practice. • Ground level barriers are not possible as they would impede the work. • Goalposts would have to be erected at gateways to each of the two land plots affected; 5or 6 gateways. • A safety marker would be needed where the wires cross over hedges to alert operators during hedgecutting. • Brightly coloured markers along the wires are unacceptable due to their overall visual impact. • The conspicuous visual impact of any or all of these measures has not been accounted for in the visual impact assessment.	response to question 4.8 (Examination library reference REP6-035) it was confirmed that no goalposts will be required during construction of the scheme. The LVIA has considered construction effects but these will be temporary term and transient. The effects were considered not significant. The scope of the LVIA was not to assess barriers or goalposts that might be erected by landowners/ tenant farmers following their risk assessments.

SP Manweb Response to Dewi Parry SWQ 4.8	
Shock Horror' states that if you wish to work near overhead power lines (OHPLs) you should use barriers or goalposts to limit access. It then goes on to describe how these features should be painted red and white so that they are highly visible. (a) Has the Applicant considered how many barriers and goalpost structures would be required along the length of the route? If not, why not? (b) Has the Applicant considered the visual impact arising from red and white goalposts along the length of the cable? If so, please could the paragraph number/document number details be provided? If not, why not? (c) Please could Affected Persons provide evidence to the Examination identifying where, in their view, if the development was consented, they would need to construct barriers and/or goalposts to mark the locations of the overhead wires to minimise the risk of tractors/sprayers/mobile plant and tipper lorries etc. coming into contact with the wires?	
Dewi Parry Response	**SP Manweb Response**
Whilst using goalpost will be practically very hard to sustain, their use in an ideal world would probably mostly be at harvest time, such as loading trailers with loadalls, combining etc. A bigger problem for most farmers would not be the height of the cables but avoiding collision with	SP Manweb has explained in its response to question 4.8 (Examination Library reference REP6-035) that it will be the responsibility of the Principal Contractor to carry out risk assessments and the result of that risk assessment will determine what safety measures, to ensure compliance with the GS6 Guidance, will be necessary. The issues identified by Mr Jones will be taken into

post and stays and especially when contractors are doing field work. This would be a greater risk on fields with slopes when tractor or machinery can skid, a barrier would not avoid this type of collision as the driver would have very little control. We will have one structure a few meters from a hedgerow, our tractor might fit between them but a contractors might not so to negate any risk we would have to put a barrier from the hedge to the posts that would stop anyone trying to fit between them, this would lead to a bigger affected area.	account as part of the risk assessment and the Ex A can be confident that these issues will be considered and appropriate safety measures put into place as part of the construction works. It is entirely normal for the risk assessment not to have been undertaken at this stage prior to the development consent having been made With regard to the potential of a barrier being erected leading to a larger area being affected by the pole structure; should a larger area be affected then the affected person has the right to include this in their claim for any compensation as a result of SP Manweb exercising compulsory acquisition rights granted under the Order.

SP Manweb Response to Iwan Jones SWQ 12.4	
Draft DCO v3 Article 19 would authorise the Applicant to create and acquire compulsorily various classes of rights and impose restrictions. As Class 2(b)(g)(h)(i) and (j) and Class 4 are for temporary rights only should Article 19(1) be changed to remove rights that are defined as temporary in the Book of Reference from this article? If not, why not?	
Iwan Jones Response	**SP Manweb Response**
Rights classed as temporary should be removed from this Article. Applicant confirmed at the hearing that access would be secured to the line for repair/renewal purposes through the Electricity Act. Why therefore does the applicant need to compulsorily acquire these rights when they consider they already have the necessary powers through the Electricity Act.	As set out in SP Manweb's response to SWQ 12.4, the Book of Reference, Version 3 (Examination Library Reference REP6-018) has been amended to remove the Class 2 rights relating to the construction of the 132kV Overhead Line and the construction compound and the Class 4 rights relating to tree felling. The temporary use powers set out in Article 27 of the draft DCO v4 (Examination Library Reference REP6-012) (which are not compulsory acquisition powers) will be used to carry out the construction activities for the Proposed Development over the land shown coloured yellow and light green on the land plans. Therefore, SP Manweb is not seeking rights classed as temporary, in the words of Mr Jones, in the development consent order. Article 27 is required

	as without it, SP Manweb would not be able to construct the 132kV Overhead Line. The Electricity Act 1989 does not give SP Manweb the requisite powers to enter land and actually construct as part of its undertaking. SP Manweb either has to (a) reach agreement for those rights or (b) compulsory acquire those rights or (c), ask for temporary use powers (which is the minimum that SP Manweb can ask for). New rights are still required over the yellow land for the purposes of drainage works, reinstatement planting and ecological measures (Class 2(f), (g) and (h)). These rights are required as these works may be required to be carried out after the expiry of temporary use powers. As set out in paragraphs 5.9 and 5.10 of the Written Summary of SP Manweb's Oral Case put at the Compulsory Acquisition Hearings and Appendices (Examination Library Reference REP3-035), SP Manweb is seeking the compulsory creation of a right of access over land during the construction, operation, maintenance and decommissioning phases in only 8 locations. All other accesses for construction will be made under temporary use powers. On a 17.3km overhead line, it is considered that the creation of

	access rights in only 8 locations demonstrates that SP Manweb has sought to minimise its utilisation of compulsory acquisition as much as reasonably possible. Where access from the highway is required outside those 8 locations, SP Manweb will have the ability to utilise its powers under the Electricity Act 1989 as necessary. It can be seen, therefore, that SP Manweb is to build out the scheme with the minimal possible land acquisition.

SP Manweb Response to DCC Response to SWQ 4.5	
In her Written Representation to the Panel, submitted prior to the Issue Specific Hearing (ISH) on Thursday 1 October, Councillor Alice Jones stated, “Last year there were 89 incidents on farmland in North Wales and Merseyside. This is an extremely high number as the harvest and field work involved lasts just over six months of the year..”. Please could Cllr. Jones provide the Panel with details identifying where the information stating the number of incidents on farms came from and provide a web-link or PDF version of the original report or document to the Examination?	
DCC Response	**SP Manweb Response**
A copy of an article in the Liverpool Daily Post-dated 12 August 2015 relating to a "mock collision" held by SP Energy Networks. Article states that last year "there were 89 incidents on farmland in North Wales and Merseyside" and refers to a particular accident in Wrexham. The article also states that "SP Energy fears incidents may rise as the harvesting season peaks".	SP Manweb can confirm that the response provided by Denbighshire County Council (DCC) is accurate. The information has also been published on the SP Energy networks website where is states: *‘There were 89 incidents on agricultural land in North Wales and Merseyside, and over the past five years there have been more than 800 incidents in the same area. The majority of these incidents are caused by power lines falling as a result of adverse weather conditions, but can also be caused by accidental contact with*

	overhead power line'. http://www.spenergynetworks.co.uk/ news/pages/spen_and_north_wales_police2.asp (13th August 2015)

SP Manweb Response to DCC Response to SWQ 12.3	
At Deadline 3, DCC supplied comments from Development Services (Highways and Transportation Department) in relation to draft Articles 13-16 stating that they do not agree with the powers that are being sought in relation to draft DCO Part 3 Section 10 (power to alter the streets) and also they do not agree with the transfer of highway powers to the undertaker. Please could the Applicant and the Highways Authority resolve these matters outside the Examination hearings and provide an agreed form of wording for the relevant articles and schedules by 18 November?	
DCC Response	**SP Manweb Response**
Adrian Walls has been in dialogue with Steve Edwards on these matters. Exchanges are ongoing and it is hoped to confirm respective positions soon	1. This is an update on progress since SP Manweb's response to Second Written Questions for Deadline 5. 2. Discussions have continued to take place between SP Manweb and DCC with a view to reaching agreement on the drafting of highways and street works powers in Articles 10 – 16 of the draft DCO. 3. In response to feedback from DCC officers to the note prepared on 17 November (Examination Library reference REP6-030), SP Manweb has prepared an updated note (20 November 2015) for DCC. The updated note specifically

	addresses the comments from Mike Parker included in DCC's Deadline 3 submission (Examination Library reference REP3-006). 4. SP Manweb has set out in the note to DCC why SP Manweb's proposed drafting is appropriate. SP Manweb appends a copy of that note to this submission. 5. Progress has been made and discussions are continuing. DCC supplied comments to SP Manweb by email on 2 December 2015 which SP Manweb are considering and responding to. Whilst the form of drafting is not yet agreed, SP Manweb hopes that it may be possible to reach agreement prior to the hearings due to begin next week.

1. **Commentary in relation to highways clauses in the draft Development Consent Order**

1.1 SP Manweb requires approval in accordance with **Requirement 9** (Schedule 2 to the draft Order) before any works to construct or alter any access to a highway may be commenced.

1.2 In submitting plans for approval, SP Manweb anticipates that dialogue would begin in relation to any agreement required between SP Manweb and DCC under **Article 16**. SPM anticipates that agreements under Article 16 will be put in place early and will form the basis for co-operation between DCC and SPM in delivery of the works and any necessary restoration following completion of construction.

1.3 **Article 10(1)** sets out the powers for works to streets that SP Manweb may undertake. These are defined with reference to the schedules to the Order and the submitted works plans and Access Rights of Way plans. These schedules show that SP Manweb is not carrying out any works to a public right of way, and all the works on DCC maintained highways are to create/improve accesses into fields on a temporary basis (which then have to be restored under **Article 10(3)**). SP Manweb does not consider that there is any objection to the inclusion of these works in the Order.

1.4 **Article 10(2)** sets out a general power, but this power can only be exercised with the consent of DCC (see **article 10(4)**).

1.5 **Article 11** is not understood to be at issue, and replicates street works powers that SP Manweb already holds as an electricity distribution licence holder.

1.6 **Article 12(1)** requires that any temporary accesses constructed by SP Manweb must be maintained by SP Manweb until restoration works are completed. Where restoration works are completed, they must be completed to the reasonable satisfaction of DCC. SP Manweb must then maintain those works for a period of 12 months before they vest in the highways authority, unless otherwise provided for by an agreement under Article 16 (see **article 12(3)**).

1.7 SP Manweb has proposed amendments to Article 12 to address concerns that works should not automatically vest in DCC 12 months after construction. Those changes are shown in red/strike through on the attached copy of Articles 10-16, and will ensure that SPM remains responsible for works for the whole construction period until restoration is satisfactorily completed (or unless otherwise agreed with DCC).

1.8 **Article 13** is not understood to be at issue, and provides that any temporary diversion or restriction on PROWs set out in the schedules may only be undertaken on giving DCC two weeks' notice. Any other temporary diversion or restriction can only be undertaken with DCC's consent.

1.9 **Article 14** is also not understood to be at issue, and provides that SP Manweb may make temporary traffic orders on giving no less than 4 weeks' notice to DCC, and advertising any orders in the manner specified by DCC.

1.10 **Articles 13 and 14** do not prevent an agreement between SP Manweb and DCC under which any relevant orders could be made by DCC under DCC's usual processes.

1.11 **Article 15** – this is not understood to be a point of contention, and grants powers for other accesses within the order limits to be permitted. This would also be subject to approval under **Requirement 9**.

In relation to the specific comments raised by Highways Officer Adrian Wells by email on 29 October 2015:

Article 12
DCC comment: If they chose to enhance the surface of a public right of way to facilitate access I do not accept we should then become responsible for the maintenance of the enhanced highway after 12 months. This should be a matter between the developer and landowner.

SPM Response: SPM has not identified any PROWs that it needs to enhance to facilitate access for construction. This is clear from the schedules. In the event that SPM decides that it does, then it would need to obtain the express consent of DCC under Article 10(4). Through this agreement, DCC could ask SPM for whatever maintenance that it requires. Therefore no amendment can be made as DCC's concerns cannot be born out in the order.

DCC comment: This could be an example where in order to achieve access to a pylon site they need to drive along a public footpath with a grass or other natural vegetation and earth surface and in order to do this they found it necessary to improve the load bearing surface of the ground by stoning the path. They cannot make such improvements without our consent as Highway Authority.

SPM Response: The order as drafted would require SPM to obtain consent to carry out any such works under article 10(4) as the order does not authorise any upgrade works to footpaths.

DCC comment: Nothing in this order would enable them to take on that capacity from the Highway Authority, as far as Public Rights of Way are concerned, of approving highway improvements along with subsequent automatic transferring of end maintenance responsibility without our agreement.

Therefore I would prefer they should not improve the surface of cross field paths unless there is no alternative and at the end of the works we will not accept maintenance responsibility for the new surface other than in line with our existing obligations for the existing unsurfaced path.

SPM Response: See above. Should SPM require this ability, it will need the express consent from DCC under article 10(4) and in obtaining that consent, DCC can request whatever maintenance requirements it wants from SPM. The order does what DCC requires.

Article 13
DCC comment: I note the intention that were SP Networks to acquire powers we would retain capacity to veto any proposal for a traffic restriction or prohibition of use order within 56 days of receiving notice. It is likely the impact of these works on the path network will have minimal impact due to the limited number of paths involved crossing the work corridor. The linear nature of such a large development will require that adequate alternative local provision will maintained where access right are restricted and that alternative routes are both commodious and do not expose pedestrians or equestrians to traffic. Given the small number of paths involved with this scheme and low levels of useage in this area if the Council, as Streetworks Authority, was to support this proposal I would not disagree in as far as it applies to the Rights of Way Network although I am confident we would make any necessary order required by the scheme within normal timescales.

SPM Response: No amendment required as DCC is happy with Article 13.

Article 14
DCC comment: The comments about traffic regulation would be the same as those above.

SPM Response: No amendment required as DCC is happy with Article 14.

In response to comments from Mike Parker in his email of 8 October, submitted by DCC at Deadline 3:

As a Highway Authority we do not agree with the transfer of highways powers to the undertaker. When any applications are received, there would be no reason why these could not be dealt with by the Highway Authority at the relevant time in line with currant procedures. These comments cover all sections.

SPM Response: The DCO process is intended to provide a comprehensive consent for the Proposed Development. The principle of including highways powers in a DCO is well established. The Clocaenog Forest Wind Farm Order 2014 contains highways powers in favour of the undertaker in Articles 12-17. In this case, SPM is seeking powers in relation to specific works, temporary works and temporary closures/restrictions which are set out in the schedules and on the access and rights of way plans. The other powers in the draft DCO require the consent of the highway authority before they can be exercised. DCC retains control through these mechanisms.

In relation to part 3 section 10 power to alter the streets, we do not agree with this. The Highway Authority would need to approve all works as there may be safety implications, a legal agreement may also be required depending upon the scope of the works being carried out.

SPM Response: The highway authority would be required to approve works to streets under the terms of Requirement 9. The power in Article 10(1) relates to the works shown on the plans already produced as part of the application for the Examination. We do not understand that there are any safety concerns in relation to those plans. Any concerns which do subsequently arise can be dealt with when the detailed designs are submitted for approval.

In relation to any other works proposed to be carried out under the powers in Article 10(2), those powers cannot be used without the express consent of the highways authority (see Article 10(4)).

If on reviewing plans under Requirement 9 or a request under Article 10(2) and 10(4) the highways authority felt that a legal agreement was necessary, there is provision in Article 16 for a legal agreement to be entered into.

Regarding the closure of Streets and Public Rights of Ways I have attached the forms so you can see the amount of notice normally required for closures etc.

SPM Response: There are two categories of temporary closures in Article 13.

The first relates to those which are detailed in Article 13 (4), comprising the restrictions and prohibitions shown in columns (1) and (2) of Schedule 6 (temporary prohibition or restriction of the use of streets or public rights of way). Those routes may be temporarily restricted to the extent specified in column (3) of that Schedule, and SPM must give 14 days notice to DCC before those restrictions take effect.

The second category are the general powers in Article 13(1) and 13(2). Those powers can only be used with the consent of DCC (see Article 13(5)(b)). DCC is entitled to attach reasonable conditions to the grant of consent under Article 13(5)(b), which could include specifying a notice period in line with those on the forms attached.

The wording proposed by SPM is more generous to DCC than the equivalent drafting in the model provisions (which were accepted for the Clocaenog Wind Farm Order 2014), which include wording that the highway authority's consent is not to be unreasonably withheld, and only requires the undertaker to consult the highway authority, and not to give a minimum of 14 days' notice.

The order also expressly preserves the requirement for SPM to obtain any orders required under sections 1, 9 or 22BB of the Road Traffic Regulation Act 1984 (traffic

regulation orders, experimental traffic orders and traffic regulation on byways in national parks).

If the powers were given up how would this work legally.

SPM Response: The model provisions as set out in The Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 include powers of this nature. There is no concern that the grant of these powers is not legally permissible.

Extract from draft DCO

Schedule 2, Requirements

Highway works

9.—(1) No work to construct or alter any permanent or temporary means of access to a highway to be used by vehicular traffic must commence until, following consultation with the relevant highway authority, written details of the design and layout of that means of access has been submitted to and approved by the relevant highway authority.

(2) The highway accesses must be constructed in accordance with the details approved under sub-paragraph (1).

DCO Articles 10-16

Power to alter layout, etc., of streets

10.—(1) The undertaker may for the purposes of the authorised development alter the layout of or carry out any works in the street in the case of permanent works as specified in column (2) of Part 1 of Schedule 3 (streets subject to permanent and temporary alteration of layout) in the manner specified in relation to that street in column (3) and in the case of temporary works as specified in column (2) of Part 2 of Schedule 3 (streets subject to permanent and temporary alteration of layout) in the manner specified in relation to that street in column (3).

(2) Regardless of the specific powers conferred by paragraph **Error! Reference source not found.** but subject to paragraph (3), the undertaker may, for the purposes of constructing and maintaining the authorised development, permanently or temporarily alter the layout of any street within the Order limits and the layout of any street having a junction with such a street; and without limitation on the scope of this paragraph, the undertaker may—

(a) increase the width of the carriageway of the street by the reducing the width of any kerb, footpath, footway, cycle tract or verge within the street;

(b) alter the level or increase the width of any kerb, footpath, footway, cycle track or verge;

(c) reduce the width of the carriageway of the street;

(d) make and maintain crossovers passing place(s);

(e) carry out works for the provision of parking places and unloading areas; and

(f) execute any works to provide or improve sight lines.

(3) Unless otherwise agreed in writing with the street authority, the undertaker must restore any street that has been temporarily altered under this article to the reasonable satisfaction of the street authority.

(4) The powers conferred by paragraph (2) must not be exercised without the consent of the street authority.

(5) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 56 days beginning with the date on which the application was made, it is deemed to have granted consent.

(6) Paragraphs (3), (4) and (5) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

Street works

11.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 4 (streets subject to street works) as is within the Order limits and may—

(a) break up or open the street, or any sewer, drain or tunnel under it;

(b) tunnel or bore under the street;

(c) place and keep apparatus in the street;

(d) maintain apparatus in the street or change its position;

(e) carry out all necessary works required for the exercise of article 10 (power to alter layout, etc., of streets);

(f) place and keep during the construction and installation of the authorised development scaffolding on any verge to a street;

(g) removing or using all earth and materials in or under any street; and

(h) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b), (c), (d), (e), (f) and (g).

(2) The authority given by paragraph (1) is a statutory right for the purposes of section 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) The powers conferred in paragraphs (1) and (2) are without prejudice to the powers of the undertaker under the Electricity Act 1989([1]).

(4) In this article "apparatus" has the meaning given in part 3 of the 1991 Act.

(5) Where the undertaker is not the street authority, the provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).

Construction and maintenance of new or altered means of access

12.—(1) Those parts of each means of access specified in Part 1 of Schedule 5 (access) to be constructed under this Order must be completed to the reasonable satisfaction of the relevant highway authority and must be maintained by and at the expense of the undertaker ~~for a period of 12 months from completion and from the expiry of that period by and at the expense of the relevant highway authority~~ until such time as the works are restored in accordance with article 10(3).

(2) Those parts of each means of access specified in Part 4 of Schedule 5 (access) to be constructed under this Order must be completed to the reasonable satisfaction of the relevant street authority and must be maintained by and at the expense of the undertaker for a period of 12 months from the date on which the undertaker no longer requires use of the access for the construction of the authorised development and from the expiry of that period by and at the expense of the relevant street authority.

(3) Those restoration works carried out pursuant to article 10(3) identified in Part 2 of Schedule 5 (access) must be completed to the reasonable satisfaction of the relevant highway authority and must be maintained by and at the expense of the undertaker for a period of 12 months from completion and from the expiry of that period by and at the expense of the relevant highway authority (unless an agreement has been entered into between the undertaker and the relevant highway authority under article 16 in relation to the maintenance of these restoration works).

(4) Those restoration works carried out pursuant to article 10(3) identified in Part 3 of Schedule 5 (access) which are not intended to be a public highway must be completed to the reasonable satisfaction of the street authority and must be maintained by and at the expense of the undertaker for a period of 12 months from completion and from the expiry of that period by and at the expense of the street authority.

(5) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

([1]) 1989 c.29.

(6) For the purposes of a defence under paragraph (5), a court is, in particular, to have regard to the following matters—

(a) the character of the street including the traffic which was reasonably to be expected to use it;

(b) the standard of maintenance appropriate for a street of that character and used by such traffic;

(c) the state of repair in which a reasonable person would have expected to find the street;

(d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and

(e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant that the undertaker had arranged for a competent person to carry out or supervise the maintenance of that part of the street to which the action relates unless it is also proved that the undertaker had given that person proper instructions with regard to the maintenance of the street and that those instructions had been carried out.

Temporary prohibition or restriction of use of streets and public rights of way

13.—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily alter, divert, prohibit the use of or restrict the use of any street or public right of way and may for any reasonable time—

(a) divert the traffic from the street or public right of way; and

(b) subject to paragraph (2), prevent all persons from passing along the street or public right of way.

(2) Without prejudice to the scope of paragraph (1), the undertaker may use as a temporary working site any street or public right of way within the Order limits and which has been temporarily altered, diverted, prohibited or restricted under the powers conferred by this article.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street or public right of way affected by a temporary alteration, diversion, prohibition or restriction under this article if there would otherwise be no such access.

(4) Without prejudice to the generality of paragraph (1) the undertaker may temporarily alter, divert, prohibit the use of or restrict the use of the streets and public rights of way specified in columns (1) and (2) of Schedule 6 (temporary prohibition or restriction of the use of streets or public rights of way) to the extent specified in column (3) of that Schedule.

(5) The undertaker must not temporarily alter, divert, prohibit the use of or restrict the use of—

(a) any street or public right of way specified in paragraph (4) without first providing the street authority with at least two weeks' notice of such alteration, diversion, prohibition or restriction; and

(b) any other street or public right of way without the consent of the street authority which may attach reasonable conditions to any consent.

(6) If a street authority which receives an application for consent under paragraph (5)(b) fails to notify the undertaker of its decision before the end of the period of 56 days beginning with the date on which the application was made, it is deemed to have granted consent.

(7) This article does not remove the requirement for the undertaker to obtain any order required under sections 1, 9 or 22BB of the 1984 Act.

Traffic regulation

14.—(1) Subject to the provisions of this article and the consent of the traffic authority in whose area the road concerned is situated, the undertaker may, in so far as may be expedient or necessary

for the purposes of or in connection with construction of the authorised development, at any time prior to the date of final commissioning—

(a) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road;

(b) authorise the use as a parking place of any road; and

(c) make provision as to the direction or priority of vehicular traffic on any road either at all times or at times, on days or during such periods as may be specified by the undertaker.

(2) The undertaker must not exercise the powers of article 13 in respect of prohibition or restrictions relating to vehicular traffic only on a road and paragraph (1) of this article unless it has—

(a) given not less than 4 weeks' notice in writing of its intention so to do to the traffic authority in whose area the road is situated; and

(b) advertised its intention in such manner as the traffic authority may specify in writing within 7 days of its receipt of notice of the undertaker's intention in the case of subparagraph (a).

(3) Any prohibition, restriction or other provision made by the undertaker under article 13 or paragraph (1) of this article—

(a) has effect as if duly made by, as the case may be—

(i) the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act; or

(ii) the local authority in whose area the road is situated as an order under section 32 of the 1984 Act,

and the instrument by which it is effected is deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004 (road traffic contraventions subject to civil enforcement)([2]).

(4) In this article—

(a) subject to sub-paragraph (b) expressions used in this article and in the 1984 Act have the same meaning; and

(b) a "road" means a road that is a public highway maintained by and at the expense of the traffic authority.

(5) If the traffic authority fails to notify the undertaker of its decision within 56 days of receiving an application for consent under paragraph (1) the traffic authority is deemed to have granted consent.

Access to works

15. The undertaker may, for the purposes of the authorised development and with the consent of the relevant planning authority, after consultation with the relevant highway authority, form and lay out such other means of access or improve the existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

Agreements with street authorities

16.—(1) A street authority and the undertaker may enter into agreements with respect to—

(a) the construction of any new street including any structure carrying the street under the electric line authorised by this Order;

(b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;

(c) any alteration, diversion, prohibition or restriction in the use of a street authorised by this Order; or

(d) the carrying out in the street of any of the works referred to in article 12(1) (construction and maintenance of new or altered means of access).

([2]) 2004 c.18. There are amendments to this Act not relevant to this Order.

(2) Such an agreement may, without prejudice to the generality of paragraph (1)—

(a) make provision for the street authority to carry out any function under this Order which relates to the street in question;

(b) include an agreement between the undertaker and street authority specifying a reasonable time for the completion of the works; and

(c) contain such terms as to payment and otherwise as the parties consider appropriate.

SP Manweb Response to DCC's Response to SWQ 12.9	
Question 12.9 The draft DCO v3, R18 now states, “In the event that, at some future date, numbered works 1A and 1B are no longer in use and there is no likelihood of numbered works 1A and 1B being in use, the undertaker is to…..” and then provides the actions that have to be taken to commence the decommissioning and restoration plan. (b) Whilst the Panel acknowledges that the LPAs have provided their own suggestion for a decommissioning requirement, please could DCC and CCBC provide their views on the Applicant’s revised wording in this requirement, on a ‘without prejudice’ basis, for example would it meet the requirements of Welsh Circular 11/95 in terms of being enforceable, precise and reasonable in all other aspects?	
DCC Response	**SP Manweb Response**
12.9 (b) "The Council considers the use of the words 'no longer in use' and 'no likelihood of…being in use…' in the context of this condition is too imprecise, and that consideration should be given to including reference to a time limit from the last generation of electricity to the grid (e.g. 12 months)	SP Manweb responds to each part of DCC's response separately below. ***'No longer in use…is too imprecise'*** SP Manweb does not agree with DCC's submission that the phrase 'no longer in use' is too imprecise.

and to confirmation from the relevant wind farm operator that the connections is no longer required."	Whether numbered works 1A and 1B are 'no longer in use' is an objectively ascertainable fact and can be monitored and identified having regard to the definition of 'use' in Schedule 2 to the draft DCO v4. As set out in SP Manweb's response to SWQ 12.9, "use" is defined as follows: "*"use" means utilise the SP Manweb PLC distribution system.* *"distribution system" means the system consisting (wholly or mainly) of electric lines owned or operated by SP Manweb PLC that is used for the distribution of electricity from grid supply points or generation sets or other entry points to the points of delivery to customers or authorised electricity operators.* It will be a position of fact whether or not the 132kV Overhead Line is being utilised for the distribution of electricity that can be evidenced by SP Manweb. It therefore follows that the relevant planning authority will be able to monitor whether or not the line is in "use" by asking SP Manweb to produce records demonstrating the "use" of the

	132kV Overhead Line. Nonetheless, in order to make this point absolutely clear, SP Manweb is content to amend the definition of "use" in order to define it as meaning the distribution of electricity on the SP Manweb distribution system. This will be amended in the next draft version of the DCO. The definition of Use will therefore read: *"Use" means to facilitate the distribution of electricity through the SP Manweb PLC distribution system.* ***'No likelihood of...being in use… is too imprecise'*** SP Manweb does not agree that this phrase is too imprecise. As SP Manweb has evidenced throughout this Examination, the 132kV Overhead Line will form part of its distribution network once erected. In accordance with its statutory duties under the Electricity Act 1989, SP Manweb will therefore have to include the 132kV Overhead Line as part of the consideration of alternative connection solutions when asked to make a connection offer in the future. For this reason, i.e. balancing the requirements of the Electricity Act 1989 with those

	under the Planning Act 2008, SP Manweb considers that the language proposed in the current drafting of the decommissioning requirement is more appropriate than setting an arbitrary time limit as the sole test for triggering decommissioning. To illustrate, should SP Manweb: a) have made a connection offer or b) have a connection agreement in place; or c) have a defined network reinforcement requirement; ; that would require a connection through the 132kV Overhead Line, then that would not trigger the decommissioning requirement as there is a likelihood of it being used. ***Including a reference to a time limit and to confirmation from wind farm operators that the connections are no longer required*** For the reasons outlined above, and as previously explained to the Examination, SP Manweb does not agree with this suggestion.

SP Manweb Response to Cefn Group (Martin Barlow)SWQ 8.1	
Question 8.1 Replanting of trees would be partially undertaken as secondary mitigation and partially by agreement with landowners	
Cefn Group (Martin Barlow)Response	**SP Manweb Response**
Cefn Group's view is that it is difficult/ impossible to deduce what might be the spectrum of possible outcomes as regards replanting and impossible to get any sense of what the practical results might be on the ground.	Refer to SPM NWWFC ExA2 SWQ 8.1 for details.

SP Manweb Response to Cefn Group's Response to SWQ 12.2
Question 12.1 Draft Development Consent Order (DCO) v2 (September 2015) contained the definition of "distribution" which included the words, "…is used for conveying electricity from a generating station to a substation", and the definition of "operate" which "means one or any of the following: to put or keep working in operation, the distribution and export of electricity together with the running, activating, managing, controlling and utilising that distribution…" whereas the definition of "operate" has been deleted in v3 of the draft DCO and the definition of "distribution" has been changed in the draft DCO v3 (October 2015) to "distribution system" which is "…used for the distribution of electricity from grid supply points or generation sets or other entry points to the points of delivery to customers or authorised electricity operators". (a) Does this mean that if the DCO is made using the terminology in v3 of the draft DCO, the cables could be used for the import or export of electricity? (b) Why has this change been made? and (c) How can the Applicant justify this change as the ES and application documents are predicated upon the cable connection being the "North Wales Wind Farms Connection" serving four (now three) wind farms? **Question 12.2** Do Interested Parties have comments to make upon these changes to definitions?

Cefn Group Response	**SP Manweb Response**
Cefn Group not informed enough to comment properly on this question but aware of a distinction between supplying the National Grid and supplying end users and that the new definition appears to "lump all in together". Refers to the Llandinam Inspector's Report and that the Inspector considered the difference between supplying to the Grid and supplying consumers as relevant to planning matters. Highlights sentence in para 488 which state "that any faults that would occur would not leave any consumer without a supply".	A definition of "customer" can be found within the Ofgem Regulatory Instructions and Guidance for the electricity distribution network operators price control RIIO-ED1a customer (consumer) as:- A 'customer' (consumer) means in relation to any energised or de-energised entry or exit point to the DNO's Distribution System, where metering equipment is used for the purpose of calculating charges for electricity consumption, the person who is providing or is deemed to be providing a supply of electricity through that entry point... A customer (consumer) be identified from Metering Point Administration Numbers (MPANs) As set out in SP Manweb's response to SWQ 12.1(a) the 132kV Overhead Line will form part of SP Manweb's network. SP Manweb notes the reference to paragraph 488 in the Llandinam

	Inquiry Inspector's report (which relates to lifetime costs) and the point made about faults not leaving any consumer without a supply. SP Manweb confirms that the costs associated with faults (otherwise also referred to as Customer Interruptions (CI) and Customer Minutes Lost (CML)) that leave customers without a supply are excluded from costs contained in both the SP Manweb Overhead line and Underground Cable Options as set out in the Lifetime Costs Report. It should be noted if these costs were to have been included, whilst the Customer interruption would be the same for either option, the Customer Minutes Lost would be significantly higher for underground cable repair due to the extended repair time.