



BY EMAIL

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Dear Madam

**Reinforcement to the North Shropshire Electricity Distribution Network - EN020021
Planning Act 2008
SP Manweb Plc**

This letter is submitted by SP Manweb in response to the submission from Network Rail Infrastructure Limited's ("Network Rail") dated 25 July 2019 in which Network Rail set out its concerns in relation to the draft protective provisions proposed to be included in the Order for its benefit, the need for a Framework Agreement and the need for an Asset Protection Agreement. In that letter Network Rail also request a further issue specific hearing in order to further ventilate its concerns.

As to the substantive issues, as previously stated, SP Manweb propose to provide a single comprehensive response to all outstanding comments on the protective provisions following Deadline 7 and the receipt of any and all comments from statutory undertakers but we set out below our summary response to the concerns raised in Network Rail's recent submission.

Protective Provisions

Compulsory Acquisition

This is a point of principle between the parties. Network Rail wishes to dis-apply the compulsory purchase provisions with regards to the land in which it holds interests. It says it is necessary to protect its assets. SP Manweb believes that the powers of compulsory purchase are necessary to ensure that a nationally significant infrastructure scheme is capable of being delivered and that the protections afforded to Network Rail are sufficient.

The ExA is well aware of the Network Rail land, the assets that sit upon it and the proposed oversail of those assets by the scheme. SP Manweb notes in this regard that in referring to the proposed development in its letter, Network Rail's

has misunderstood the details of the scheme in that there are no underground cables running alongside the railway and the wooden poles would be on land outside of Network Rail's operational interests. The access track shown is to give access to undergrounding elsewhere (see Sheet 2 in the Works Plan). As set out below, the ExA and Secretary of State will have to make a judgment between the two positions given, as SP Manweb understands, that It has the necessary information to do so.

SP Manweb continues to work with Network Rail to agree land rights in preference to seeking CA powers and has accepted and returned to Network Rail a signed Supplemental Agreement. This is the standard agreement used where SP Manweb proposes to place apparatus either under or over Network Rail land and secure land rights for the said apparatus. The Supplemental Agreement is the project specific agreement under the Principal Agreement (Master Wayleave Agreement) agreed between the parties dated 12th October 1961. The seeking of CA powers remains necessary until such time that the land rights agreement under the Supplemental Agreement is fully implemented i.e. when the line is energised and therefore also remains in the protective provisions.

The Principal Agreement (sometimes also referred to as the Omnibus Agreement) is a master wayleave agreement which acts as the over-arching agreement to allow a Supplemental Agreement to be agreed to enable SP Manweb to carry out work on Network Rail land on a case by case basis.

Indemnity

SP Manweb does not accept the consequential loss in the indemnity on this scheme.

Framework Agreement and Asset Protection Agreement

As previously stated, SP Manweb sees no justification for the Framework Agreement; there being protective provisions and terms set out under the Supplemental Agreement which link to the Asset Protection Agreement if this can be agreed. These measures adequately provide protection for the operation of the railway.

SP Manweb's approach is no different to that taken in the Legacy – Oswestry scheme installed in 2016 which is just a few miles away and crosses the same railway with Network Rail's consent.

Issue Specific Hearing

As to the request for an ISH, SP Manweb sees no need for an ISH and is opposed to one being held. The Planning Act 2008 regime is a primarily a written process. Network Rail's letter makes clear its concerns. SP Manweb is able to respond to them and the ExA and Secretary of State to understand the parties' respective positions. It is not clear why this request is being made

shortly after an ISH on the draft DCO when Network Rail were free then to make any points it wished to do so.

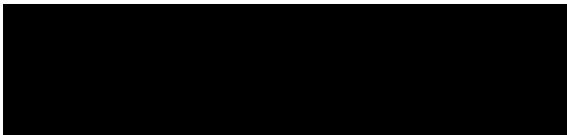
As previously explained, there are likely to be a few points on which the ExA will have to take a view on the proper balance of protections between the interests of statutory undertakers and the SP Manweb as promoter. This is not unusual. An example is the point of disagreement on the compulsory purchase powers set out above. The position between the parties is clear. Ultimately the balance of protection is for the ExA and the Secretary of State. There is no necessity for an ISH in which Network Rail would orally submit what it has already submitted in writing.

Engagement following Network Rail letter

Following receipt of the Network Rail letter, SP Manweb and Network Rail's lawyers have subsequently discussed Network Rail's concerns. SP Manweb understands Network Rail's lawyer will clarify to the ExA that they are keen to avoid a further ISH and that both parties will further consider the protective provisions and framework agreement within the next few days. Further consideration will also be given to SP Manweb's signing of the Supplemental Agreement and associated Asset Protection Agreement which potentially avoids the need in the longer term for the protective provisions and framework agreement. SP Manweb considers this demonstrates detailed engagement is taking place and will provide a further update to the ExA as soon as it can.

Should you have any queries please do not hesitate to contact me.

Yours faithfully



Steven Edwards
Land & Planning
SP Energy Networks, for and on behalf of SP Manweb