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19 July 2023

Jamie Lowe
Head of Regulation, Compliance, and Sustainability
Engie Australia & New Zealand

By email

Dear Mr Lowe

Re: Brookfield and MidOcean application for merger authorisation for proposed acquisition of Origin Energy Limited

Eos Aggregator (Bermuda) LP (**Brookfield**) and MidOcean Reef Bidco Pty Ltd (**MidOcean**) have applied under section 88(1) of the Competition and Consumer Act 2010 (**Act**) (**Application**) for authorisation of the proposed acquisition by MidOcean of 100% of the ordinary shares in Origin Energy Limited (**Origin**) and the proposed subsequent on-sale of the Origin Energy Markets Business to Brookfield (**Proposed Acquisition**).

Pursuant to section 90(6)(c) of the Act, the Australian Competition and Consumer Commission (**ACCC**) requests that Engie Australia & New Zealand (**Engie**) give the ACCC particular information in response to the questions in **Attachment A**, being information that is relevant to the ACCC's determination in respect of the Application.

Given the short timeframe within which the ACCC is required to conduct its assessment of the Application, the ACCC requests that Engie provide its response by **26 July 2023**, to enable the ACCC to consider the information provided. Section 90(6A) of the Act provides that the ACCC may, but need not, take into account any information received after this time.

The public register and requesting confidentiality

Pursuant to section 89(5) of the Act, Engie may request that its response to this request, in whole or in part, be excluded from the ACCC's public register for confidentiality reasons. If Engie wishes to do so, it must do so at the time of providing the response. To enable the ACCC to decide whether or not to accept the request to exclude the information, all claims of confidentiality should be supported by reasons. Further information about how to make an exclusion request is provided in the [ACCC's guidelines](#).

Subject to any request for exclusion of a document or part of a document from the public register, Engie's response will be placed on the ACCC's public register as required by section 89(4) of the Act, along with this letter.

The ACCC is committed to treating confidential information responsibly and in accordance with the law.

The ACCC accepts confidential information on the following basis:

- there is no restriction on the internal use, including future use, that the ACCC may make of confidential information consistent with the ACCC's statutory functions
- confidential information may be disclosed to the ACCC's external advisors and consultants on the condition that each such advisor or consultant will be informed of the obligation to treat the information as confidential
- the ACCC may disclose the confidential information to third parties (in addition to its external advisors or consultants) if compelled by law or in accordance with section 89(7) or section 155AAA of the Act.

In some circumstances, the ACCC may be legally required to disclose confidential information, for example under the Freedom of Information Act 1982 or as part of Court or Tribunal processes.

The Australian Energy Regulator is assisting the ACCC in its review of the Proposed Acquisition and we propose to provide them with any response to this letter. We request that you confirm your consent to this in your response.

If you wish to discuss any aspect of this letter, please contact Michael Drake on 03 9658 6517 or Rheyah Shah 02 9230 3815.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'DM McCracken-Hewson', with a long horizontal flourish extending to the right.

Daniel McCracken-Hewson
General Manager
Merger Investigations Branch

Attachment A

Competition and Consumer Act 2010 section 90(6)(c)

The ACCC requests Engie give the ACCC by **26 July 2023** any information that Engie considers is relevant to the ACCC's determination of the Application, in respect of the following:

1. In what ways could a vertically integrated electricity generation and transmission network business realistically discriminate against its generation competitors?

For example, how realistic or practically achievable is it that it might discriminate by delaying connections of competing generation projects, inflating costs to competing generators through discriminatory pricing, disclosing information to provide its vertically integrated generation business with competitive advantages or prioritising certain augmentations to the network.
2. Please explain the likely impact / harm (including any flow-on effects) that would arise if a vertically integrated electricity generation and transmission network business discriminated against its generation competitors.
3. What incentives would a vertically integrated electricity generation and transmission network business have to discriminate against its generation competitors? In answering this question, please explain if those incentives change depending on:
 - a. whether the business is also vertically integrated in electricity retailing with a larger customer base than generation capacity, and/or
 - b. the number and size of co-owned generation that is connected or looking to be connected to the vertically integrated transmission network.
4. In what ways could a vertically integrated electricity retail and distribution network business realistically discriminate against its retail competitors?

For example, how realistic or practically achievable is it that it might discriminate by delaying connections to competing retailer customers, inflating costs to competing retailers through discriminatory pricing, disclosing information to provide its vertically integrated retail business with competitive advantages, prioritising certain maintenance, augmentations or improvements or selectively targeting outages or event load shedding.
5. Please explain the likely impact / harm (including any flow-on effects) that would arise if a vertically integrated electricity retail and distribution network business discriminated against its retail competitors. In answering this question, please explain if the likely impact / harm changes depending on the presence and size of other distribution networks within the state in question.
6. What incentives would a vertically integrated electricity retail and distribution network business have to discriminate against its retail competitors?
7. In what ways could a vertically integrated electricity retail, distribution network and smart meter business realistically discriminate against its retail or smart meter competitors?

For example, how realistic or practically achievable is it that it might discriminate through sharing of competitively sensitive information, exclusivity arrangements in respect of the smart metering business, bundling retail services with smart meter or behind the meter products or services.
8. Please explain the likely impact / harm (including any flow-on effects) that would arise if a vertically integrated electricity retail, distribution network and smart meter business discriminated against its retail or smart meter competitors.

9. What incentives would a vertically integrated electricity retail, distribution network and smart meter business have to discriminate against its retail or smart meter competitors?
10. Any other information that you consider is important for the ACCC to consider in making its determination in respect of the Application.