Record of oral submission to the ACCC

Matter name	Brookfield LP and MidOcean proposed acquisition of Origin Energy Limited
ACCC/AER parties	Gina Cass-Gottlieb, Clare Savage, Catriona Lowe, Anna Brakey, Peter Crone, Stephen Ridgeway Kathryn Wood, Rachel Collins, Elizabeth Batten
Merger authorisation no.:	MA1000024
Other parties	Brookfield: • Stewart Upson, Managing Partner and Chief Executive Officer of Brookfield for Asia Pacific • Luke Edwards, Managing Director, and Head of Australia – Renewable Power and Transition business unit, at Brookfield Asset Management ULC • Fiona Crosbie and Ted Hill, Partners (Allens) Origin: • Frank Calabria, CEO, Origin Energy Limited • Linda Evans, Partner, HSF ACCC attendees via Teams: Daniel McCracken-Hewson, Katie Latham, Sita McTavish, Tess Macrae, Madeleine Houghton, Alex Reed, Victoria Xia Other attendees via Teams – • Brookfield – Natasha Vrynwy-Jones, Lee-Anne Yeo • Origin – Kate Jordan, Simone Warwick • Allens – Felicity McMahon, Molly Snaith, John Hedge (on behalf of EIG) • HSF – Andrew North, Richard Robinson
Date	4 August 2023
Time	10:45 am AEST

Phone to ☐	**Phone from** ☐	**Meeting** ☒	**Other** ☐

This was a meeting between representatives of Brookfield, Origin Energy Limited (**Origin**) and the ACCC to allow Brookfield and Origin to provide an oral submission in relation to Brookfield and MidOcean Reef Bidco Pty Ltd's (**MidOcean**) proposed acquisition of Origin.

Unless where otherwise specified, Brookfield made the following oral submission.

Brookfield influence on AusNet and Brookfield's structure and governance

1. Brookfield's investment in AusNet is held by different funds and ultimately different investors to the funds which will be invested into the Origin Energy Markets business. Brookfield has fiduciary obligations to each set of investors. Brookfield Infrastructure, the business unit responsible for the investment in AusNet, does have influence over AusNet. Brookfield Infrastructure is AusNet's largest shareholder and has a duty to Brookfield Infrastructure investors to ensure it is well managed. Brookfield is an active fund manager, aiming to drive value in the investment for both Brookfield, its co-investors and the ultimate investors.
2. However, that does not mean that Brookfield will use that influence to benefit Origin, or discriminate against Origin's competitors, for the following reasons.
    1. There are strong regulatory controls in the transmission industry, particularly in Victoria, both around how the network operates under AEMO and how new connections processes operate. Those regulatory controls either limit the ability for a conflict, or at the least, would mean that any such attempts would become public in a way that could affect Brookfield's reputation if there were any discrimination or favouring of Origin.
    2. The reputation of Brookfield is the most important thing for its global franchise. Its business is about raising capital from hundreds of the largest, most sophisticated investors, investing that capital according to fund mandates, and managing and returning it in a way that exceeds the funds' targets. Investors invest in Brookfield because they trust Brookfield, and those relationships have been built over decades.
3. Brookfield's business model involves raising capital and for it to continue to grow and have its $800b+ business prosper, Brookfield would not take any risk to put that in jeopardy. It would be a conflict for Brookfield to use one pool of capital belonging to one set of investors, to benefit another pool of capital belonging to an entirely different set of investors, and this would be catastrophic to Brookfield's global reputation and would affect its ability to raise funds across all of its businesses.
4. Brookfield has many different policies and processes in place globally to manage conflicts. For example:
    1. Approval by a global conflicts committee would need to be sought prior to any pool of capital interacting with another pool.
    2. Staff are trained about managing conflicts and regulatory risk.
    3. Employees would be terminated for cause for breaching the policy should they attempt to do something to benefit one business against the interests of another Brookfield business. Brookfield indicated that it will separately provide the ACCC with information about any sanctions made under its conflicts policies and processes.
5. The investment in Origin is less than 1% of Brookfield's global assets under management, so weighing the potential for harm to its reputation against any potential dollar benefit arising from breaching Brookfield's policies to manage conflicts is not in Brookfield's interest.

6. Brookfield's company structure incorporates processes and separate business streams to manage conflicts. Relevantly here, there is a global Infrastructure Business (which holds an interest in AusNet) which is separate from the global Renewable Power Business (which would acquire the interest in Origin). These are different funds with different ownership structures, leadership structures, and co-investment partners. (AusNet's co-investment partners are four large Canadian pension funds and a large Australian superannuation fund; while Brookfield's co-investment partners for Origin include GIC and Temasek).
7. In Australia, in anticipation of heightened concerns, Brookfield has taken specific steps for the Renewable Power Business to be physically separated, and the Renewable Power Business therefore sits on a different floor of Brookfield's premises from Brookfield's Infrastructure group and has separate personnel.
8. Brookfield has submitted a draft undertaking to the ACCC to reinforce this separation and is open to the ACCC's feedback on what may need to be included in an undertaking that would be acceptable to the ACCC.
9. Turning to compensation, senior people in Brookfield's Infrastructure group have responsibility for managing assets such as AusNet. Their financial motivation is to maximise the value of those assets.
    - **Confidential to Brookfield** of their long-term incentive compensation is through a small proportion of the outperformance of the funds (referred to as 'carry'). In the case of AusNet, maximising the value of the asset is tied to aspects such as making sure the business is running effectively, achieving good regulatory outcomes, and making as many new connections as possible. Any steps to favour Origin are likely to go against that interest. For example, causing roadblocks or delays to new connections would not go to maximising the value of the asset. Giving Origin a better deal would constitute a direct value transfer from Brookfield's infrastructure fund to the renewable fund. Such conduct would not be in the interest of the individual/s responsible for managing the infrastructure fund.
    - **Confidential to Brookfield** of an individuals' long-term incentive compensation is generally linked to BAM options, which reflects all assets under BAM management.
10. For the leadership team of Brookfield including Stewart Upson, Connor Teskey (President, Brookfield Asset Management; CEO Renewable Power & Transition) and Bruce Flatt (CEO of Brookfield), **Confidential to Brookfield**
11. There are 8 Directors on AusNet's board; 4 from Brookfield and 4 from co-investment partners. The 4 Brookfield directors are each from the Infrastructure group and are remunerated as described above. They are not paid separate director fees. [***Note:*** there are currently 7 directors on AusNet's board as Brookfield is yet to appoint a replacement for one of the 4 Brookfield directors who has retired from the board]
12. Brookfield has control at the AusNet board over simple majority matters. In respect of certain special majority matters, including related party transactions, where there is a conflict, the Brookfield directors would not vote; these matters would be completely decided by the other 4 (non-Brookfield) directors, per the shareholder agreement.
13. No member of the Renewable Power business unit would ever sit on the board of an Infrastructure business unit company.

Certainty of the green build-out of Origin and timing

14. The Brookfield Global Transition Fund (BGTF) is a US$15bn global fund that started fund raising in 2021, as an impact fund which came about with the support of Mark Carney's

(Chair, Brookfield Asset Management; Head of Transition Investing) leadership in this space.

15. There are two key targets of the fund: to make financial returns, and to make a meaningful reduction in emissions. It is important to Brookfield that both targets are met, otherwise this would impact on Brookfield's credibility and harm its ability to raise capital for further series of funds.

16. Brookfield has committed to reporting to investors each quarter on a science-based Impact Measurement and Management (IMM) framework. In terms of any consequences of failing to perform to the framework, 'it all comes down to trust', and it would harm Brookfield's reputation if the green build-out plan was not executed and the returns were not achieved.

17. The Origin transaction is unique in the world, as the first example of bringing capital to bear on a high emitting, largely thermal generation business, and using that capital to accelerate transition to lower carbon emissions. Brookfield wants to demonstrate that its transition plan is a successful model.

Origin made the following oral submission

18. Origin submits that its Climate Transition Action Plan is aligned to the 1.5-degree target in the Paris Climate Agreement (limiting the temperature increase to 1.5°C above pre-industrial levels). This will involve a 40% reduction in emissions intensity, and a 20m tonne reduction in absolute emissions by 2030. There are a number of levers or choices Origin can make to achieve this. The bulk of these reductions will be achieved through the announced closure of the Eraring Power Station (which itself accounts for around 15m tonnes). Origin will also need to invest in renewables generation and storage, as well as digital capabilities and decentralised assets.

19. The key facet of this is that under the Climate Transition Action Plan around 4GW of renewable generation and storage is coming in, and this is on the basis of the Eraring Power Station being closed by 2025.

20. The transition is challenging for a number of reasons. Origin is a publicly listed company with a responsibility to continue to distribute funds to investors, and this means that raising the level of capital needed is not straightforward. An answer to this might be simply to write more power purchase agreements (PPAs), but there are risks with these, it is not always easy to go into the market and obtain them, and there is a limit to the level of PPAs Origin can enter into from a corporate finance point of view. There are also risks and challenges with developing renewables at the early stages of a project, compared with later stages where more capital is available once the risks reduce. The challenges at the early stages of development can be reduced by financing internally, and there is a greater chance of developing projects more rapidly. Internal financing is easier under private ownership compared with public ownership where long-term propositions are more difficult and shareholders expect ongoing dividends. Without Brookfield, Origin's targets are likely to be achieved but at a higher cost, slower, and with a higher risk.

21. Origin's decarbonisation plans with respect to APLNG by 2030 are more modest, being focussed more on ongoing improvements.

22. In terms of Origin's gas-fired generation portfolio, the plan is to continue until the end of the portfolio's technical life, in the mid-2030s, and then to transition to clean energy, exploring technologies like dual-fuel technologies such as hydrogen and lithium batteries.

23. Brookfield has both financial incentives and reputational incentives to meet its green build-out targets. For example, if Brookfield funds a new generation asset, it will be funding this using a portion of debt and equity. Having constructed the generation asset and removed construction risk, we could on-sell part of Brookfield's equity at a profit. That profit from developing new generation assets and taking construction risk, is part of what drives Brookfield's return on investment in Origin.

24. Brookfield seeks to buy Origin, a company with a significant short position in electricity generation, to build-out the generation capacity to meet the needs of Origin's customer base.

25. Brookfield's targets for Origin are ambitious. Its intention is to build out 14GW of renewable generation capacity. Its financial motivation and reputational intent are clear. There are three ways to reach these targets being: development of projects from scratch, buying or investing in projects, and investing through joint development agreements with various other developers.

26. There is a queue for procurement globally. Australia is at risk of being lower on the queue for procurement opportunities. Brookfield considers itself to be towards the front of the queue, due not only to its size, but importantly due to its role as an experienced global operator/developer of renewable energy projects with relationships with relevant suppliers across the globe.

27. For example, Brookfield is seeking to put in place agreements with overseas parties to bring manufacturing to Australia. The benefits of moving manufacturing to Australia will include improving security of supply. In terms of the cost profile, it will be more expensive to manufacture items in Australia compared to India or China. However, for the larger items (e.g. towers and blades for wind turbines), it could be better to manufacture in Australia as transport costs are traded for manufacturing costs.

28. Part of Brookfield's 100-day plan is to work with Origin to accelerate its existing plans including behind the meter plans. Brookfield's plans are based on technologies which are available today, to provide Origin's customers with good, clean energy. Its plans also include solutions for long term storage, such as long-term (6-8 hour) storage, and improvements to behind the meter technology. Origin's existing plans, for example, in relation to behind the meter solutions, have potential, but Origin lacks the capital to deliver these at scale, which Brookfield's investment solves.

Origin made the following oral submissions

29. Origin submits that a lot of progress must be made in terms of renewable projects, irrespective of work on transmission, due to long lead times.

30. Origin's plans include building grid-based storage by 2030 that is not dependent on new transmission connections. For example, a 460W 2-hour battery is being built at Eraring. That can be accelerated at existing sites where transmission is already available, but there are limitations to what Origin could do on its balance sheet on its own.

31. There is also an opportunity under Brookfield ownership to accelerate behind the meter solutions using Distributed Assets. These are currently at an early stage in the market. Origin has a Virtual Power Plant which has good growth and a good customer base. The key thing to accelerate growth over time for the benefit of consumers is to bring together the asset, its funding and management, combined with control of the asset and the customer proposition. To deliver this at scale requires financing, asset management and orchestration – which requires significant capital. To attract capital from third parties would require initial internal investment first, to demonstrate the proposition.

Accelerating Virtual Power Plant growth comes with a consumer benefit as you would be able to lower costs.

32. There will be a lot going on in the energy space over the next 7 years. The rationale for shutting Eraring, and accelerating its closure, remains unchanged. The ability of coal to operate economically in the market is getting harder and harder. AEMO states there will be a shortfall in 2025-26 of 350MW [redacted]

33. Brookfield has a stronger ambition in what may be achieved in terms of a decarbonisation goal, and with Brookfield's capabilities, that will reduce the risk, time and cost of meeting those outcomes.

34. Brookfield agreed with Origin's comments on the closure of Eraring. Timing on the closure of Eraring will come down to broader system issues. Brookfield would work with government to ensure that any closure would occur in a manner with which the government would be comfortable – to minimise the impact on the citizens of New South Wales.

35. There is no assumption of government financial support for Brookfield's green build-out plan for Origin. While not the basis of Brookfield's plan, it would consider any available support where appropriate.

36. In general, Brookfield tends to outperform its targets. For BGTF, the target return in investment is **Confidential to Brookfield** equity IRR. The fund has a mandate, and that mandate could support a range of investments. Some investments have a risk profile that means that target could be above or below the return. In the case of Origin, Brookfield prices above return, given the risk in build out and the return from successfully meeting an ambitious build out plan.

37. Brookfield is taking a level of merchant risk. Comparing retail customers to PPAs, Brookfield assumes the market will remain the same over the coming 10 years. Retail customers tend to return each year however as the DMO is based on the wholesale market this is not guaranteed. There is a risk in Brookfield's business plan, and Brookfield takes on that risk.