



## Record of oral submission to the ACCC

<b>Matter name</b>	Brookfield and MidOcean proposed acquisition of Origin Energy Limited – application for merger authorization (MA1000024)		
<b>ACCC parties</b>	Michael Drake, Soo Sian Koh, Hugh Cosolo, Julia Kelland, Will Richards, Katie Latham		
<b>Other parties</b>	<b>ACEN Australia</b> <ul style="list-style-type: none"><li>• Michael Connarty (Manager, Market Trading and Operations)</li><li>• Con Van Kemenade (Regulatory development and market readiness)</li></ul>		
<b>File No.</b>	MA1000024		
<b>Date</b>	Tuesday, 4 July 2023		
<b>Time</b>	2:00pm		
<b>Phone to</b> <input type="checkbox"/>	<b>Phone from</b> <input type="checkbox"/>	<b>Teams Meeting</b> <input checked="" type="checkbox"/>	<b>Other</b> <input type="checkbox"/>

This was a meeting between ACEN Australia (**ACEN**) and the ACCC to allow ACEN to provide an oral submission in relation to Brookfield and MidOcean’s proposed acquisition of Origin.

ACEN made the following oral submission.

### Background

1. ACEN is a developer, owner and operator of renewable projects, with several GW of projects in various stages of development across the NEM in NSW, Victoria, Tasmania and South Australia.
2. ACEN currently have 1 GW of capacity in construction and 8 GW of capacity in the development pipeline. Their renewable energy assets include solar, wind, battery and pumped hydro and energy storage. They are active in day-to-day trading in the NEM particularly in the NSW Central West Orana and New England REZs. Their current developments in Victoria include a 140MW solar farm outside of Bendigo with a 50MW battery aligned to it, and they are in the process of looking for offtakes in the market.

3. [REDACTED]

### Offtake agreements

4. ACEN believes there are difficulties with securing offtake agreements and PPAs, particularly in relation to the different price expectations between generators and contractors. ACEN has been able to capitalise on merchant appetite to fund their generation projects over the longer term but securing revenue certainty in the long-term is difficult. For example, their current development of the 400MW Stubbo Solar Farm near Dubbo commenced development on balance sheet because going to the market and attempting to secure revenues that align with ACEN’s expectations would

create delays and likely mean unrealistic prices expectations to secure long-term agreements that support project financing. It took a lot of negotiation to secure an agreement with a third-party retailer that ACEN felt didn't compromise short-term value in exchange for the long-term value proposition.

5. ACEN notes that the difficulty getting a PPA for longer than 3 years without construction is an issue of price and return expectation. For example, in 2019/20 ACEN was involved in tender propositions [REDACTED] but had to withdraw from that process because the offer expectations to be successful were at least 10% lower than ACEN's long-term revenue expectations. As a number of corporate PPAs have come up in recent years, it is also difficult for ACEN as an owner-operator to compete with developers who aren't involved in long-term operating, who offload projects and recoup premiums before moving onto their next project. ACEN is in a fortunate position that they are able to wait and commence construction on their balance sheet, but many developers can't do that and are forced to sacrifice short-term value to provide a long-term value proposition. In ACEN's experience, this sacrifice results in only just breaking even in the long-term.
6. ACEN feels that the inability to secure long-term price certainty impacts the overall viability of developing long-term projects. According to the Clean Energy Council's report for the last quarter, only 1 development project in battery storage reached financial close. This speaks volumes when compared with the state of the industry, given NSW prices are sitting at \$130/MWh. ACEN would expect retailers and corporates would be eager to take on long-term energy deals (at much lower prices than short-term market prices) when prices are so high instead of being exposed to the spot, but there is a clear gap between that expectation and the actual current trends in projects coming online.
7. This unwillingness to enter into long-term projects might be a result of:
  - a. Supply chain issues in developments,
  - b. Higher prices of energy flowing from the war in Ukraine while corporates and big gentailers haven't yet adjusted their expectations as to what a reasonable price for a long-term certain price contract is,
  - c. Issues with grid connection and rising grid costs, as well as newer costs like system strength charges,
  - d. The inability of developers to secure finance without a connection, and
  - e. A reluctance to develop outside REZs.
8. ACEN notes this may change in coming years and that there are a lot of companies focused on renewables, but it is a long and difficult process.

#### Vertical integration

9. ACEN believes the benefits of vertical integration between generation and retail from the generator's perspective varies depending on price. When wholesale energy prices are high, these benefits are not as pronounced in comparison to investing in generation and securing offtake agreements instead.
10. One key benefit of vertical integration is symmetrical management of wholesale market risks. If a generator has a retail book, even if wholesale prices are falling, they are able to retain their margins more easily without passing those costs on as retail prices are stickier. For ACEN, the forward curve for wholesale prices is looking strong enough that the transaction costs associated with becoming a retailer outweigh the benefits in the short-term, but in the medium to long-term vertical

integration is a viable risk management strategy if you have good projects and can reach a lower Levelised Cost of Energy than the market.

### **Renewable generation and future without the proposed transaction**

11. ACEN believes that, if the barrier to shifting the generation pool to renewables is a financial one, then Brookfield's claim that they are better positioned than other investors to lead Australia's energy transition is true. Origin has attractive assets and once they close down coal generation, even if they split off gas they will likely have underlying contracts with their peaking gas fleet which complements renewable generation to provide firming capacity. Brookfield and Origin may be able to present that package more cheaply for customers. ACEN submits that between Origin's gas generation assets and Brookfield's proposed development in renewable generation, Brookfield would have a strong generation portfolio with firming capacity.
12. ACEN notes that Origin has not developed any renewables projects for a long time, and if it is a financial barrier as Brookfield claims then Origin now has a vehicle to deliver that investment to the market and develop renewables.
13. ACEN also feels that Brookfield's global buying power and scale might put it in a better position than other developers to overcome global supply chain issues. It is difficult to attract investment without pursuing large projects, as suppliers won't quote for less viable smaller projects. ACEN noted an example in which a developer secured approval for building a wind farm, but manufacturers were not willing to supply the relevant materials due to its small scale. Brookfield may have monopsony power in global supply chains which would allow it to access those services more cheaply.
14. ACEN believes the 14GW of generation and storage capacity proposed to be built out by Brookfield is reasonably significant in the context of the overall buildout required to shift the NEM to renewable generation. 14GW would be about 1/3 of what is required by the NEM by 2033. By way of comparison, NSW has committed to 12GW by 2030, but they need to be ahead of the market due to their coal-fired generators closing sooner.
15. ACEN submits it is difficult to determine if, in the absence of the acquisition, other investors would replace the proposed 14GW of investment in renewable generation. The value of having a party like Brookfield willing to invest large amounts of capital in the transition is significant and it is a good thing for customers, the economy and reaching Australia's climate targets. There would be enough room for other players like ACEN to remain in the market and contribute their part, but the more renewable generation we can bring into the energy market the better.
16. ACEN notes the key challenges in the overall transition of the NEM to renewable generation is access to transmission. The policies implemented in REZs are paramount to making transmission systems work. Other challenges including:
  - a. Securing contracts for BESS given they are not traditional market product,
  - b. Reluctance in the market to secure long-term agreements,
  - c. Stakeholder issues,
  - d. Social licence, and
  - e. Curtailment and congestion risk as more renewable generators want to connect at the same time.

17. ACEN notes these barriers may not stop projects altogether but do contribute to delays. They also note that the proposed buildout of 14GW of new generation would make curtailment and congestion risks worse unless addressed by government policy to support new connections and develop transmission capacity, but that the proposed investment would not inherently crowd out other investment in generation. ACEN feels a better way to address the greater risk of curtailment and congestion would be through implementing transmission access reform such as that proposed by the ESB, not by constraining Brookfield's investment in some way.

### **Competition issues**

18. ACEN finds it unlikely that AusNet as an electricity TNSP and DNSP could discriminate against an electricity generator or retailer in Victoria, such as through delaying new connections. The connection process is relatively robust and transparent and delaying projects for non-technical reasons would be visible. The current rules and regulation in the market is likely to be sufficient to prevent AusNet using its position as the network operator from advantaging its affiliate in Origin or disadvantaging competitors.
19. ACEN does not know of any issues with connecting to the transmission or distribution networks due to actual or perceived discrimination by AusNet. The potential risk of discrimination is unlikely to deter ACEN or other generator/developers from investing in renewables.
20. ACEN is not concerned that AusNet would preferentially provide confidential information it gained as the transmission network operator to Origin, but that there would need to be sufficient ringfencing surrounding AusNet and Origin to manage the separation of the businesses.
21. ACEN is somewhat concerned by the concept of vertical integration of electricity distribution and retail given retailers are all connected to distribution networks, but distribution is not their area of expertise. ACEN is not concerned about vertical integration with smart meter installation.
22. ACEN thinks the new Victorian Transmission Infrastructure Framework which will shift future planning, development and consultation from AEMO to VicGrid in Victoria is a net positive. It likely means transmission will be built more quickly and not face the subjective net market benefits tests that currently exist. The faster transmission can be built, and projects can be connected, the better. In theory, VicGrid's adoption of greater responsibility would be able to address any risks of discrimination by AusNet by assuming some of its planning functions away in Victoria.
23. ACEN believes any risk associated with embedded generation is no more substantial than the transmission risk, and is not concerned.