Record of oral submission to the ACCC

Matter name	Brookfield and MidOcean proposed acquisition of Origin Energy Limited – application for merger authorisation (MA1000024)
ACCC parties	Michael Drake Tanya Hobbs Victoria Xia Albert Lee Julia Kelland
File No	MA1000024
Other parties	[redacted]
Date	Wednesday, 5 July 2023
Time	10:00am
Phone to ☐ **Phone from** ☐ **Teams Meeting** ☒ **Other** ☐	

This was a meeting between [redacted] and the ACCC to allow [redacted] to provide an oral submission in relation to Brookfield and MidOcean's proposed acquisition of Origin.

[redacted] made the following oral submission.

Background

[redacted]

Renewable generation and future without the proposed transaction

2. [redacted] does not believe that Brookfield is inherently better placed than any other investor, including Origin itself, to develop renewables. The renewable development field is specialised and requires a lot of understanding, particularly of the specific requirements of the Australian market. As a general observation, the challenge to Australia's transition to renewable generation is not a lack of capital, but the structural barriers that challenge the energy market. These include challenges associated with securing necessary approvals, as well as the fundamental economics of renewable generation at this point in time. Brookfield will have the same expectations of returns as any other investor, but the economics are as

challenging as they have ever been, if not worse, due to global supply chain constraints and the mismatch between suppliers and off-takers due to expectations around pricing. Simply putting more money towards the transition does not make Brookfield uniquely placed to deal with these challenges.

3. The structural and regulatory issues that developers face vary by State. However, they include:
    a. The planning system being unable to catch up with the level of interest in project development,
    b. As projects increase in number, it requires more effort to navigate the impact of running multiple projects at once on the business case for any one project,
    c. Getting community and social licences in-place takes time,
    d. Inadequate transmission infrastructure,
    e. Complex approvals pathway for supporting infrastructure, such as investment tests for transmission, and
    f. The length of time it takes to conduct modelling and connect new projects, which also becomes more complex as developers take on multiple concurrent projects.
4. If the acquisition proceeded, the development of other renewable generation would likely not be harmed. We have seen in Australia a trend over time where companies are coming to Australia trying to capitalise on this competition and then leaving due to external factors like political climate and our remoteness to the global market in some respects. However, at the moment there are increasing levels of development activity in Australia and the competition for good renewable sites remains strong as far as [redacted] has experienced. A number of developers are well-resourced to continue competing for development sites, and there are smaller players who often develop sites and then sell on to the bigger players.
5. [redacted] cannot comment specifically on what the uptake of renewables will be if the proposed acquisition does not proceed, but reiterates that the challenges to the renewable uptake are structural and economic, not financial. [redacted] does not feel that the renewable buildout would be substantially improved or changed if the acquisition does not proceed.
6. In the short-term or on its own, the co-owned generation arising from the proposed acquisition would not impact the approach to investing in Victoria. However, they note it takes a long time to build a pipeline and that is something an established player may have over a new entrant. This is possibly also part of the rationale for the acquisition given Origin has a proven ability to navigate the system.

Off-take agreements and vertical integration

7. The PPA market in general remains somewhat limited and off-take agreements increasingly come from corporates as opposed to large retailers directly. [redacted]
8. Vertical integration between generation and retail is beneficial for gentailers themselves, but it is unclear as to whether this is beneficial for consumers due to the pricing that can be achieved under this structure. They concede it may make the vertically integrated entity more efficient but notes vertical integration is counterproductive to the efforts in the market to disaggregate such entities.

9. There is increasing interest in Australia for corporates to demand PPAs to meet their targets, trigger investment in new projects and confirm additionality to market the benefits of their investments. As such, there is patience and willingness to contract with projects early on to trigger investment, but challenges remain with the timeframes for which developers are seeking to contract. These time horizons have decreased a lot over time, but developers would ideally seek PPAs of a minimum of 10 years which presents a challenge for any off-taker, whether they are corporate or a retailer, because this is beyond their investment and decision horizon and it is difficult to anticipate customer demand loads that far in advance.

Renewable buildout

10. The proposed 14 GW investment in new generation is significant to the energy transition, but is a challenging target to reach. [redacted] Based on what has been achieved in the Australian market over a similar time horizon to-date, it will be challenging for a single company to achieve 14 GW of new generation by 2033, and would likely need to be supported by measures such as project acquisitions.
11. New projects take up to 7 years from concept to completion.
    a. Solar projects tend to take less time, and usually go from development to completion in about 5 years. While shorter timeframes (closer to 2 years) have been achieved in the market, this is unusual and occurred in a period of far less development activity so would be difficult to replicate now. For solar projects, it takes on average 2-3 years to find a site, sign up landholders, undertake the necessary grid studies and get approval, and 2 more years for construction. It is not unreasonable to achieve a solar project in 5 years, but it can definitely take longer.
    b. Wind projects tend to operate closer to a 7-year horizon, as development approval and construction takes far longer, although this varies by State. For anything over a hundred MW, it would be difficult to complete a wind project from prospecting to operation in less than 5 years.
    c. Brookfield may be able to bring a small number of proposed projects online at these fastest time horizons, but most will take the average time or longer. The ability to run multiple projects in parallel and construct all of those different streams would be key to delivery. To be anywhere near these faster time horizons, Brookfield would have to conduct expensive grid studies before getting development approval, and this can be a significant cost for each project. They would need to be willing to invest a lot of development capital at risk in order to deliver on their proposed timeframe.
12. State government policies are influencing the speed of the renewable buildout in Australia. To the extent which states are responsible for the structural planning and connection frameworks, they can influence the speed at which new projects are deployed. In addition, we are also seeing states bring out their own targets and platforms to support investment in renewables, but this is largely a recent phenomenon. These targets may be driven by concern that Australia is not on track to meet its national targets, but also because each State has their own drivers such as the looming closure of coal generation assets requiring transition towards renewables as a means of ensuring supply.

13. Energy prices are influenced by many different factors, including global commodities markets, supply chains and changing costs of capital. Contextual factors and timing of decisions are very important. [redacted]

14. Interstate connectors, and increased transmission in general, are important for supporting sustained low electricity prices, as well as for driving more investment in renewables in states with abundant renewable resources compared to regional retail demand. This is still challenging as it presents inter-regional risks but the case for investment without necessarily having local demand exists.

15. All the states present different challenges for developers, for example:

    a. South Australia's biggest obstacle for example is the lack of demand to support new off-takes.

    b. Queensland is progressing well under their government-owned corporation model which has been able to contract and progress new projects, but the challenge is that they have not had the depth of projects under development. The wind resource is also not as competitive despite having an abundant solar resource.

    c. NSW is one of the more challenging states in terms of planning approval, evidenced by the fact no wind projects have made it through approval in NSW in a number of years. There is growing concern in the industry about the disconnect between NSW's ambitious targets and the actual support for planning in NSW, which has meant there is not the pipeline approved and ready to be developed to achieve these aims.

    d. In Victoria, contracting remains a challenge but projects are generally progressing smoothly (although still arguably not at the pace required) and transmission is lagging. It is difficult to match consumer off-take expectations, but this is true of the whole country especially in the context of solar projects.

Other public benefits

16. [redacted] is unsure about other specific public benefits that might arise from the acquisition. It considers the possibility that Brookfield may bring new strategies and vision to Origin's outlook and willingness to invest in renewables. It is questionable whether the key to Australia's energy transition is transitioning the incumbents away from fossil fuels, or if it would be better targeted by creating a level playing field which would make new entry easier.

Transmission networks and ringfencing

17. Transmission ringfencing may not be working as anticipated, as highlighted in the AER's recent ringfencing inquiry for contestable services. Their concerns extend beyond just ringfencing between contestable and non-contestable transmission services, but also to transmission companies with generation affiliates. Given the concerns about the feasibility of the proposed timeline of Brookfield's buildout, if

there is any ability to preference projects connecting to the grid for any reason other than a technical one, that would be to the detriment of competition.

18. Whilst [redacted] does not know if it is currently occurring, they believe it would be possible for AusNet or any TNSP/DNSP to discriminate against a particular generator. They note that the process of approving a connection application is opaque, and that the Applicants' submission regarding regulation and AEMO's neutral presence are not sufficient to address grey areas surrounding delays, subjective judgments and information asymmetries. TNSPs have a lot of power in the relationship with generators and it is difficult especially for smaller players to push back on delays and projects which have been frustrated.
19. Practically it is very challenging to reform the ringfencing measures to make them effective. They feel that the starting point proposed by the AER as to more reporting is not the answer, as this represents a cost to businesses and does not address the difficulty of identifying where discrimination is being carried out. Many of the issues arise because of proximity of staff and the natural movement of people between affiliated entities.
20. In the short-term it would be difficult to detect if AusNet was giving favourable treatment to Origin. They submit that over the longer term it would be discernible from, for example, the number of their projects connecting to the grid and the timelines on which their projects were progressing. This would emerge from key connection reporting data and application timings, but it would take time for any pattern to become evident.