

11 November 2005

Committee Secretary  
Parliamentary Joint Committee on Corporations and Financial Services  
Department of the Senate  
Parliament House  
Canberra ACT 2600

Dear Sir or Madam

#### INQUIRY INTO CORPORATE SOCIAL RESPONSIBILITY

Thank you for the opportunity to participate in the Joint Parliamentary Inquiry into Corporate Social Responsibility.

Origin Energy is one of Australia's largest energy companies with operations in Australia, New Zealand and the Pacific serving more than two million customers. The company participates in most segments of the energy supply chain in Australia including gas and oil exploration and production, power generation, energy retailing and utility network ownership and management. We employ more than 3,000 staff.

Our submission to the Inquiry is based on our experiences gained from listening to, and addressing our stakeholders' interests as it is they who provide us with our licence to operate. We have provided this submission to assist in the debate, and to illustrate examples of how we have considered the interests of stakeholders to improve the sustainability of our activities through voluntary measures and within existing regulation.

**a. The extent to which organisational decision-makers have an existing regard for the interests of stakeholders other than shareholders, and the broader community.**

Due to the diversity of our business across the energy supply chain, Origin Energy interacts with a wide variety of stakeholders including shareholders, customers, community members, employees, governments and regulators.

It is our view that the sustainability of our activities depends on the trust and goodwill of these stakeholders. We rely on them for access to land and resources; to buy our products and services; and to maintain a stable political and economic system that encourages investment in and development of resources, as well as the provision of services by the private sector. We also rely on the community to provide employees and, through them, the skills needed to conduct our business. Some examples of how we consider stakeholder interests are as follows:

- Community and stakeholder input is a critical part of our development projects and day-to-day operations. We aim to maintain community consultation processes to ensure the effective completion and operation of our projects and facilities. We conduct extensive communication with stakeholders during the

planning, development and construction of all major projects, and then throughout the life of these assets or facilities.

- Origin Energy is subject to extensive Federal, state and local regulation. We seek to maintain effective relationships with government at all levels through ongoing interaction and participation in public debates where we can make a relevant and meaningful contribution.
- Origin Energy established a National Customer Consultative Council to meet its regulatory obligations as a retailer in New South Wales but we recognised the value in broadening the Council's scope beyond the regulated structure, and we have ensured that it covers all natural gas and electricity customers nationally. The Council is chaired by Origin Energy's Chief Operating Officer and includes representatives from Australian Industry Group, Australian Council of Social Services, Hanover Welfare Services, Australian Conservation Foundation and Brotherhood of St Laurence. The forum is an ongoing mechanism to understand issues of importance to residential and business customers.
- Origin Energy consults stakeholders in the development of key products. For example we engaged environment groups in the design of our Green Power products prior to their launch in Victoria and New South Wales. As a consequence, we developed a series of products to meet stakeholder needs and were rewarded when our 100% wind product was ranked as the nation's market leading product by a coalition of nine environmental groups.

**b. The extent to which organisational decision-makers should have regard for the interests of stakeholders other than shareholders, and the broader community.**

The principal duty of directors and officers under the Corporations Act is "to act in good faith and in the best interests of the corporation". Corporations law does not currently prescribe that company directors or officers should act in the interests of other stakeholders or the community at large. Other laws however prescribe that companies should act in the interests of certain other stakeholders that may be specifically legislated. For example, the interests of employees must be considered by a corporation which is required to provide employees with a safe working environment.

This does not mean however, that a successful company can adopt a policy that it will only consider the interests of those stakeholders that have their rights protected under specific laws. Successful companies can obtain competitive advantage by being considerate of wider "duties" that may not be the subject of specific legislation. Companies that ignore these wider duties may suffer disadvantage in their product or investment markets and may suffer loss of value through damage to their reputation.

Companies that consider the interests of other stakeholders in the context of these wider duties will not only obtain an immediate competitive advantage, but will also derive benefit to their long-term prosperity. Ignoring the interests of any legitimate stakeholder or the interests of the community will invite growth in community opposition and ultimately prescriptive laws which may affect the long-term viability of a corporation's business.

- c. The extent to which the current legal framework governing directors' duties encourages or discourages them from having regard for the interests of stakeholders other than shareholders, and the broader community.**

As stated above the current legal framework governing directors' duties is primarily focussed on their obligations to the company. However this does not operate to the exclusion of the interests of the broader community which can be considered by directors in determining what is in the best interests of the corporation. The interests of the broader community and the corporation are linked by the consideration of competitive advantage and the longer term viability of the company. Directors that recognise this link would be acting in the best interests of their corporation.

To this extent the current legal framework already encourages directors to have regard to the interests of other stakeholders and the broader community.

- d. Whether revisions to the legal framework, particularly to the Corporations Act, are required to enable or encourage incorporated entities or directors to have regard for the interests of stakeholders other than shareholders, and the broader community. In considering this matter, the Committee will also have regard to obligations that exist in laws other than the Corporations Act.**

The current Corporations Act already provides the necessary encouragement for directors to act in the interests of the broader community. Further revisions to the Act to encourage directors to do so are not only unnecessary but may also create undue complexity and increased risk to shareholders. An obligation to consider the broader community or "stakeholders" would need to be definitive about the meaning of these concepts. The uncertainty about what is meant by the "broader community" and the "interests of stakeholders" and the definition of "stakeholder" make it almost impossible to legislate and would cause confusion as to how that duty would be discharged.

This would not only cause considerable uncertainty for directors but it would also create uncertainty and greater risk for the corporation and its shareholders. By imposing a duty upon directors to act in the interests of a wider less defined realm, the law would also provide broader and less defined defences to directors potentially eroding the existing rights of shareholders. For example, under such new legislation directors may be acting in the interests of the wider community, or groups of stakeholders but this may involve a wasteful dispersal of shareholders funds and be detrimental to the corporation as a whole.

The difficulty in defining what is a "stakeholder", "the broader community" and what is in their "interests" would lead to considerable uncertainty both for directors and shareholders and extend the Corporations Act into new areas would be better left to specific legislation.

- e. Any alternative mechanisms, including voluntary measures that may enhance consideration of stakeholder interests by incorporated entities and/or their directors.**

In 2001, the Origin Energy Board approved the publication of a sustainability report. Our first report was published in 2003. We spent the intervening period developing our sustainability framework. This framework, against which we operate and report, is continually being refined and adapted in an ongoing process of continuous improvement.

We used voluntary mechanisms, such as the Global Reporting Initiative (GRI), to help us develop our reporting framework and select relevant indicators which would adequately communicate our impacts to stakeholders. The GRI is being continually reviewed and updated. For example the GRI is in the process of developing an energy utilities sector supplement to improve the relevance of its indicators to the energy industry. We are confident that the evolving nature of the voluntary mechanisms such as the GRI will help us continue to understand the changing interests of stakeholders and assist us improve our reporting to stakeholders.

- f. The appropriateness of reporting requirements associated with these issues.**

We believe that to improve the sustainability of our activities, we must identify, implement and measure the key indicators of and drivers for sustainable performance and set objectives based on these indicators and drivers that are most capable of being influenced significantly within our own activities.

We have now produced three annual Sustainability Reports to Stakeholders with a set of performance measures to provide stakeholders with a clear view of our activities as they impact on the communities and the environment.

We submit these reports to the Inquiry as evidence that Origin Energy, without regulation or legal necessity, provides its stakeholders with extensive environment, social and economic reporting beyond existing regulatory obligations.

It is Origin Energy's view that our stakeholders will be well served if we continue to better understand and report on our impacts. We caution against regulatory measures that may impose additional costs or overly prescriptive reporting measures that may encourage a "tick-the-box" approach to reporting and which may distract companies from focussing on their specific impacts.

- g. Whether regulatory, legislative or other policy approaches in other countries could be adopted or adapted for Australia.**

We do not believe that regulation is the appropriate driver for sustainability. The decision to adopt sustainability principles within Origin Energy and to report our performance was based on an internal assessment that there was a good business case. This has allowed us to be innovative in our approach to reducing our environmental impact and providing beneficial outcomes for stakeholders. For example, to reduce greenhouse gas emissions, which are generated in the company's own activities and by customers in their homes and businesses, Origin Energy has initiated or participated in:

- Australia's largest sale (at the time) of emissions reduction units from the installation of flaring technology at the Yellowbank gas processing plant in central Queensland. The sale of these units to BP enabled Origin Energy to reduce emissions at the plant by approximately 700,000 tonnes or the equivalent to taking all of Canberra's 170,000 passenger cars off the road for a full year.
- The installation of Australia's largest urban solar project to generate renewable energy at the Queen Victoria Market in Melbourne.
- The development of SLIVER solar cell technology which has the potential to expand the applications of solar power.
- The launch of Australia's first Greenhouse Friendly Gas for sale to natural gas domestic users in Victoria. Accredited by the Australian Greenhouse Office, Origin Energy's GreenEarth Gas offsets emissions produced through the production, distribution and combustion of natural gas by financing greenhouse gas reduction projects.

To address issues surrounding the inability of some customers to pay for their energy consumption we introduced a Hardship Policy and participated in the following initiatives to assist customers with payment difficulties:

- Financial counselling and energy auditing services.
- No interest loans schemes to fund energy efficient appliances.
- Retrofitting homes to help low income households reduce their energy costs.
- An appliance replacement fund for customers who cannot access funds through a government grant.

Origin Energy's experience is that the current voluntary environment has resulted in a flexible reporting approach aligned with our business activities and impacts on stakeholders. As an organisation that has experienced significant growth in the past five years, flexibility is paramount in being able to respond to the different stakeholders we engage with, as the business grows and expectations change.

We therefore believe a prescriptive rules-based approach will prove ineffective, and quite possibly counter-productive, in promoting the interests of stakeholders. An approach that promotes the culture and values within a company which is necessary to foster engagement, is likely to be more effective and beneficial.

We would be pleased to discuss these issues in further detail with you or members of the Joint Committee at your convenience.

Yours sincerely



Tony Wood  
General Manager Public & Government Affairs  
(03) 9652 5555 - [tony.wood@originenergy.com.au](mailto:tony.wood@originenergy.com.au)

#### Attachments

Origin Energy Report to Stakeholders 2004  
<http://www.originenergy.com.au/sustainability2004/>  
Origin Energy Report to Stakeholders 2003  
<http://www.originenergy.com.au/sustainability2003/>  
Origin Energy Report to Stakeholders 2002  
<http://www.originenergy.com.au/sustainability/default.html>