Dear respected Sir/Madam,

Re: Submission on the AER's draft decision on ring-fencing exemptions for HyP Gladstone and HyP SA

Please find attached the submission from the Centre for Smart Power and Energy Research (CSPER), Deakin University, titled "Supporting hydrogen innovation with verifiable safeguards." It responds to the Australian Energy Regulator's draft decision on Australian Gas Networks' proposed ring-fencing exemptions for Hydrogen Park Gladstone and Hydrogen Park South Australia.

We support proportionate exemptions where the statutory criteria are satisfied. Our submission recommends establishing a dated baseline for each project, making shared costs and internal controls verifiable, and recording credible third-party access enquiries and how they are handled. It also proposes clear notification triggers and concise annual reporting so the AER can assess whether the basis for each exemption remains sound as project operations and market conditions change.

Prepared by Dr Alireza Ganjovi and Associate Professor Saman A. Gorji, the submission draws on our research in hydrogen production and decision-useful observability, as well as our previous submissions on expenditure traceability and Essential Energy's ring-fencing waiver. Its five recommendations show how existing operational, accounting and compliance records can support oversight of the proposed exemptions.

We welcome the opportunity to discuss these recommendations and contribute to exemption arrangements that support hydrogen trials while protecting consumers and preserving fair access for prospective competitors.

Yours sincerely,
Associate Professor Saman A. Gorji, PhD, SMIEEE, FHEA
Director, Centre for Smart Power and Energy Research (CSPER)
School of Engineering, Deakin University
Victoria, Australia
[redacted]

Supporting hydrogen innovation with verifiable safeguards

Submission on AGN's HyP Gladstone and HyP SA ring-fencing exemptions

Centre for Smart Power and Energy Research | Deakin University
Alireza Ganjovi and Saman A Gorji | 4 November 2026

Submission context

The Centre for Smart Power and Energy Research (CSPER), Deakin University, submits engineering and regulatory commentary on the proposed exemptions for Hydrogen Park Gladstone and Hydrogen Park South Australia. Our experience in hydrogen production, infrastructure capability and regulatory observability informs a practical question: what evidence will allow the AER to verify that each exemption remains justified as operations and markets change?

1. Executive summary

CSPER supports proportionate exemptions where the statutory criteria are satisfied. Shared expertise can reduce the cost of small hydrogen trials, but the supporting assumptions must remain testable throughout the exemption period. We recommend linking each project to a dated baseline, verifiable controls and a review process that responds to material changes. This preserves operational efficiencies while protecting consumers and prospective competitors.

Priority	Requested outcome
R1	A dated baseline for each project.
R2	Traceable costs and demonstrable internal controls.
R3	Visibility of credible access enquiries and their treatment.
R4	Clear notification triggers and supporting information.
R5	Concise annual assurance and defined reassessment.

The contribution is a proportionate evidence framework, using existing operational, accounting and compliance records. It distinguishes company savings from consumer outcomes, physical gas flows from commercial attributes, and notification from a finding that an exemption must end. Additional assurance should address identified risks rather than impose routine new audits.

2. Proportionality and the basis for granting exemptions

The proposed exemptions run from 30 November 2026 to 30 November 2031. Section 139 requires satisfaction of the applicable pipeline-significance, compliance-cost and internal-control criteria; section 140 has a separate cost-versus-public-benefit test [1, 2]. Hydrogen regulation research supports assessment of infrastructure characteristics, market power and access, with flexibility as markets develop [3, 4].

Component	Minimum baseline
Network and scale	Injection point, supply boundary, connections, customers and annual throughput; identify comparison network and period.
Production and supply	Installed capacity, actual injection, blend concentrations and operating constraints.
Commercial scope	Material shipping, offtake and certificate arrangements.
Safeguards	Applicable controls, responsible officers and verification records.

Gladstone serves approximately 700 customers, less than 0.7% of AGN's Queensland customer base; Tonsley serves fewer than 4,000, approximately 0.8% of its South Australian customer base [1]. Customer counts support limited scale but do not describe throughput, connectivity or local access opportunities. The baseline should retain the evidence supporting these comparisons.

Record injected hydrogen in mass and energy units as well as blend concentration. Hydrogen's lower volumetric energy density means that volume percentage does not represent its energy contribution [5]. Small jurisdictional scale should also remain distinct from influence over local injection access.

AGN estimates one-off separation costs of $0.5–1.0 million for Gladstone and $0.75–2.0 million for HyP SA [1]. These applicant estimates should be assessed against a defined counterfactual and common period. Separate restructuring from recurring costs, resource expenditure from taxes and transfers, and unavoidable from contingent items. Explain overlaps and sensitivities rather than adding potentially overlapping estimates.

Avoided company expenditure is relevant but does not establish lower consumer bills. Any consumer-saving claim should identify whose costs fall, how charges change and who benefits. Environmental and knowledge benefits likewise require supporting evidence. This adds no statutory requirement to prove direct bill reductions. Under rule 34(5), losses from increased competition must be disregarded where the AER considers compliance would increase competition [2].

Internal controls should have identifiable owners, records and verification. FERC's affiliate-pricing restrictions illustrate the need to examine resource transfers [6]; European hydrogen derogations and Ofgem's sandbox guidance connect

relief to continuing conditions and review [7, 8]. These are design comparisons, not rules or thresholds to import into AGN's exemptions.

The baseline should identify the evidence used and its reporting date so that later comparisons use the same boundaries. A capacity increase, wider supply area or changed contract should be assessed against the particular criterion it could affect. The proposed approach does not assume that every expansion warrants withdrawal or that a small project cannot influence local competition. Figure 1 summarises how project baselines, supporting records and reporting can inform the AER's assessment of continued exemption eligibility.

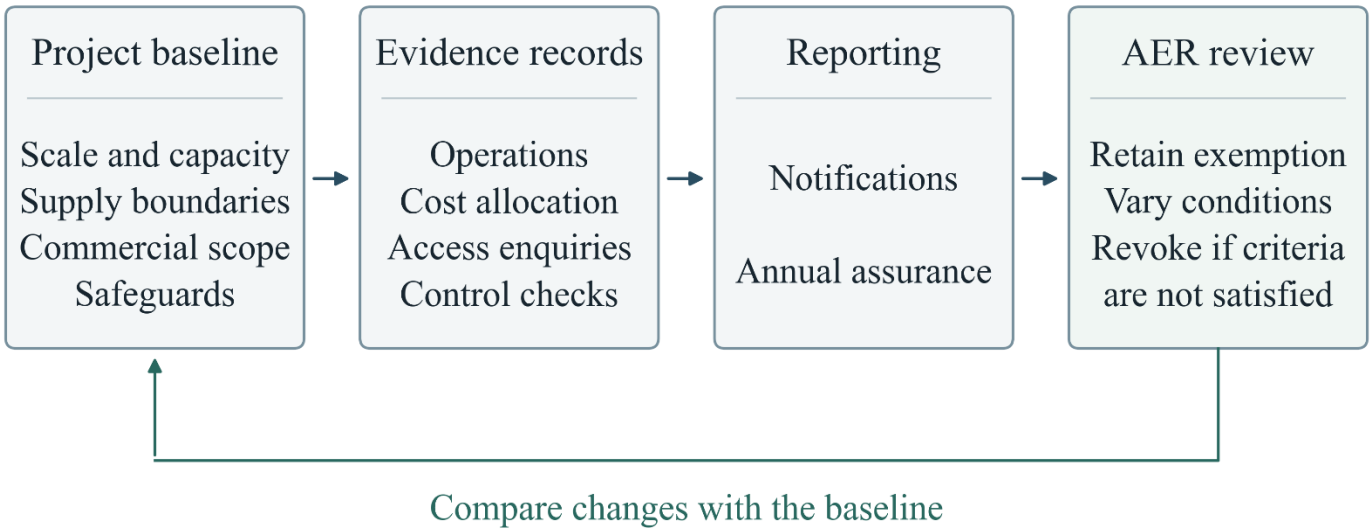


Figure 1. Proposed evidence framework for assessing continued exemption eligibility. Notification and annual assurance support AER review against the project baseline, subject to applicable regulatory procedures.

3. Cost attribution and demonstrable internal controls

The application concerns sections 139 and 140, not section 141's separate pipeline and consolidated accounting requirements [1, 2]. Transitional provisions additionally require separate trial accounts and annual submission of accounts and allocation methodologies [9]. The final decision should clarify which project records and reporting requirements apply after transition, and their legal basis. Consolidated reconciliation alone cannot establish whether costs were allocated appropriately between activities.

Directly attribute identifiable costs; allocate shared costs using causal drivers or justified proxies. NARUC recommends traceability to accounting records, while Ofgem requires objective allocation, documented approval and justification of changes [10, 11]. Staff time and work orders can support labour allocations; operating hours and capacity requirements can support equipment costs. Service deliverables, users or occupied space may explain purchased services, IT and premises costs. Corporate overheads need defined pools and suitable drivers.

The allocation method should record its version, assumptions and approval date. Where a driver changes, explain the operational reason and quantify the effect on each activity using comparable periods. This allows reviewers to distinguish genuine changes in resource use from changes caused by accounting treatment. Material corrections should remain traceable to the original entry.

One allocator rarely explains every cost. Hydrogen output may track operating expenditure but poorly represent legal services or standby capacity. Validate estimates against observed activity. Identify asset ownership, funding, depreciation and replacement treatment to prevent duplicate charging. Our CAPEX-model submission proposed linking expenditure to project function and delivery evidence [12]. Here, that traceability principle supports linking shared costs to the activities using the resources; it is not evidence of misallocation by AGN.

Material internal arrangements need records even where no external invoice exists. Identify the beneficiary, quantity, allocation or pricing basis, approver and accounting treatment. Allocation assigns costs; pricing determines commercial terms. Explain material differences from third-party terms. European accounting provisions similarly connect separate accounts, allocation rules and audit attention to cross-subsidisation [7].

Document exceptions with the affected period, potential financial or competitive consequences and corrective action. The person approving a disputed allocation should have sufficient independence from the activity receiving the benefit. Reviews should test both the accuracy of calculations and whether the chosen driver remains appropriate; arithmetic agreement cannot establish cost causation.

Protect access proposals, capacity assessments and customer negotiations through role-based permissions and documented exceptions. Necessary operational communication should remain available. FERC's information-sharing

safeguards provide a comparison for purpose-limited access and accountability [13], without reinstating the structural separation from which AGN seeks relief.

Risk	Evidence	Verification
Misallocation or duplicate recovery	Drivers, invoices, funding and asset records	Reperform material allocations; trace selected charges.
Preferential treatment	Terms, approvals and comparators	Review material or unusual arrangements.
Information misuse	Permissions and disclosure records	Test access and investigate exceptions.
Control failure	Change history and corrective actions	Confirm closure and check recurrence.

Each material control needs an owner and escalation route. Review allocation changes independently of the originating project team. Sample routine transactions and target unusual entries, late journals, duplicate invoices and abrupt allocation changes. These are screening indicators, not proof of misconduct. Report the value examined and exceptions found; a clean incident register offers little assurance unless detection procedures operate.

4. Competition access and commercial arrangements

The AER identifies no current competition concern from Wasleys or SA1 Salisbury, considering their circumstances and separation from HyP SA [1]. Retain the formal-request notification trigger but record credible preliminary enquiries. Prospective entrants may seek capacity or cost information before applying; formal-request counts alone cannot explain why enquiries stop.

Stage	Record to retain
Enquiry and information	Date, service, location, indicative scale, response and outstanding information.
Formal request and decision	Capacity sought, status, offer or refusal and reasons.
Withdrawal or dispute	Recorded reason, unresolved issues and subsequent action.

Requests should be assessed against consistent technical and commercial criteria. Differences in terms may be justified by pressure, gas quality, capacity or connection complexity, but the reason should be recorded. A withdrawal caused by project economics should remain distinguishable from an unresolved information request or disputed connection requirement.

Track response times, unresolved age and withdrawal reasons, allowing for complexity and incomplete applications. Small case numbers favour individual explanations over averages. Article 52 of the EU Directive links confined-network derogations to access-request visibility and confidentiality [7]. For AGN, confidential regulatory access and an anonymised summary would be proportionate.

Physical separation informs competition for injection capacity; commercial assessment also concerns products, contracts and customers. HyP SA's proposed Short Term Trading Market (STTM) arrangements involve AGN as facility operator and a third-party shipper; the AER finds no adjacent-market concern under current arrangements [1]. AEMO describes the STTM as a wholesale balancing mechanism, distinct from operation of physical networks [14].

Record who controls capacity, holds commodity rights and receives certificate attributes. Examine material changes in exclusivity, capacity control or bundling on their terms. FERC's capacity-release framework illustrates how contractual restrictions can affect access without physical expansion [15]. Such changes do not themselves establish harm.

Eligible renewable-gas claims can transfer attributes without physical delivery of renewable molecules to the claiming facility [16]. UK analysis likewise distinguishes book-and-claim from physical chain of custody [17]. Where material to the exemption, reconcile the following records.

Record	Reconciliation
Physical	Production, storage movements, injection, other deliveries and losses.
Commercial	Contract quantities, counterparties and settlement allocations.
Attributes	Eligible output, certificate identifiers, transfers and final claim status.

Use consistent periods and documented unit conversions. Explain differences caused by storage, timing, measurement uncertainty or scheme boundaries; quantities need not match exactly. GreenPower requires approval and safeguards for participation in the Commonwealth GO Scheme [18]. Check incompatible claims under each scheme's rules rather than treating multiple instruments as proof of double counting.

Figure 2 distinguishes physical hydrogen flows from commodity transactions and environmental attributes. The proposed framework links production, storage and injection records with contracts, settlement information and certificate records, while recognising that physical delivery and attribute ownership may differ. Dashed links indicate reconciliation between records, with differences explained through reporting periods, unit conversions, storage movements, losses and scheme boundaries. This approach would help the AER assess material changes in commercial arrangements and the evidence supporting environmental claims without duplicating existing certification processes.

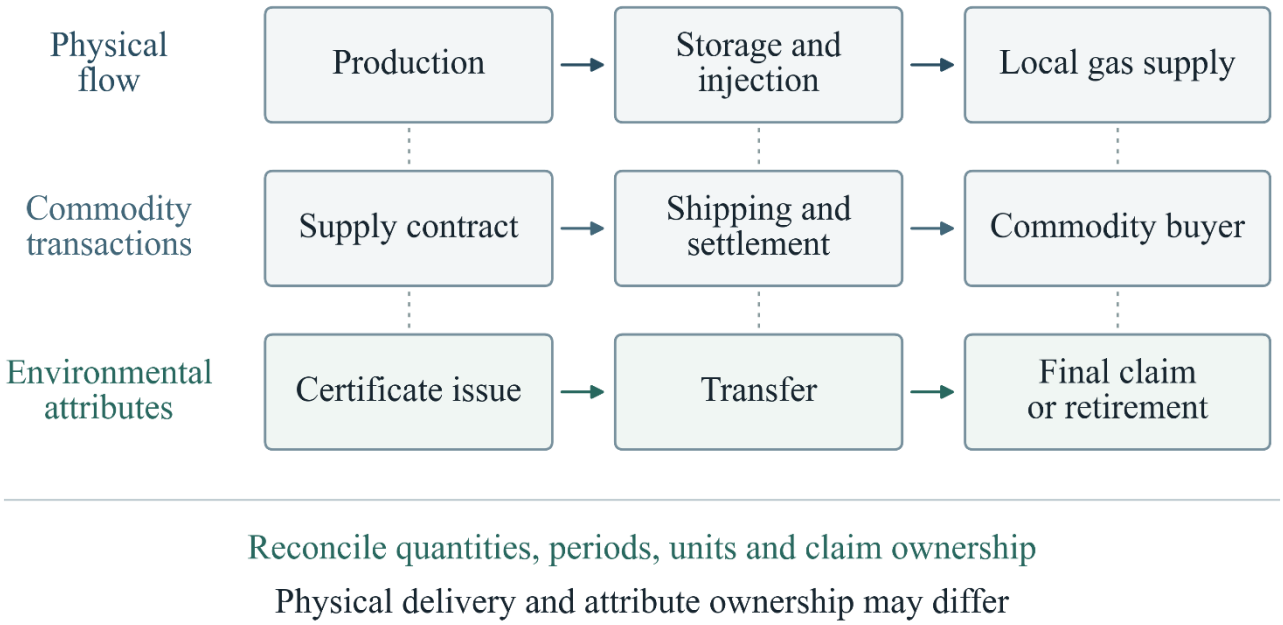


Figure 2. Proposed reconciliation of physical hydrogen flows, commodity transactions and environmental attributes. Dashed links indicate record reconciliation, not physical transfers. The diagram illustrates the proposed framework rather than verified AGN arrangements.

Attribute records should identify the beneficiary and the status supporting the final claim, not merely certificate creation or sale. Where certificates and commodity rights move separately, retain the contractual link needed to explain each claim. Certification evidence can support the exemption assessment without requiring the AER to duplicate the scheme administrator's audit.

If emissions benefits support the assessment, distinguish certified intensity from wider avoided-emissions claims. Li et al. modelled discrepancies between certification accounting and consequential emissions in Australian hydrogen production [19]. This establishes a methodological caution, not a finding about AGN. Reuse settlement, registry and certification-audit records; scheme administrators retain responsibility for scheme compliance.

5. Notification and review arrangements

The conditions require notification as soon as practicable and within 15 business days. Rule 34(6)'s "without delay" obligation applies where circumstances mean AGN no longer qualifies [1]. Clarify the following triggers without treating the outer limit as a waiting period.

Condition	Refinement and initial information
1 Nature or scale	Compare physical and material commercial changes with the baseline; identify timing, scope and affected criteria.
2 Formal access request	Notify on receipt; retain request details and status. Include credible enquiries and unresolved issues in periodic assurance.
3 Internal controls	Expressly address material weakening or failure, including accountability gaps; report exposure, interim safeguards and correction.

Materiality should reflect consequences for exemption criteria, not size alone. Justify any numerical trigger against project evidence. Routine personnel changes need no notification where responsibilities and effectiveness continue. Early engagement on planned changes can help but should not create an unstated prior-approval requirement.

Initial notifications should identify event and discovery dates, the relevant condition, baseline comparison, risk, interim measures and responsible officer. Report outstanding information with a follow-up date rather than delay disclosure. FERC's self-reporting guidance supports prompt initial reporting followed by evidence and corrective measures [20]; an exemption notification is not an admission of violation.

An accountable senior officer should provide a concise annual statement following reasonable enquiries. Confirm baseline accuracy, required notifications, access developments, material control exceptions and corrective-action status. Cite existing records. Use applicable Annual Compliance Order reporting where suitable, without assuming its scope can be extended informally [21]. Independent audits should respond to material concerns rather than be automatic.

The statement should disclose unresolved exceptions and the checks supporting any conclusion that no material change occurred. Link outstanding actions to an owner and completion date. Its first reporting period should be clear, particularly where the exemption commences partway through an existing compliance year. Periodic assurance must not postpone an event notification.

Ofgem tailors reporting to risk and avoids duplication [8]. Our observability research assesses whether information is adequate for a specified decision [22]. Applied here, annual assurance should address continued exemption eligibility. Our Essential Energy ring-fencing submission similarly proposed measurable review triggers and competition monitoring [23]. These electricity-sector applications inform the evidence approach without determining AGN's eligibility under gas law.

Figure 3 shows how the proposed notification arrangements would support AER reassessment when project scope, access requests or internal controls change materially. Each notification provides evidence for determining whether the exemption criteria remain satisfied. The response may be to retain the exemption, seek further information, vary conditions under rule 35 or revoke the exemption under rule 35A where the relevant criteria are no longer satisfied. Notification therefore initiates a reasoned review rather than automatically ending the exemption, with any variation or revocation following the applicable regulatory procedures.

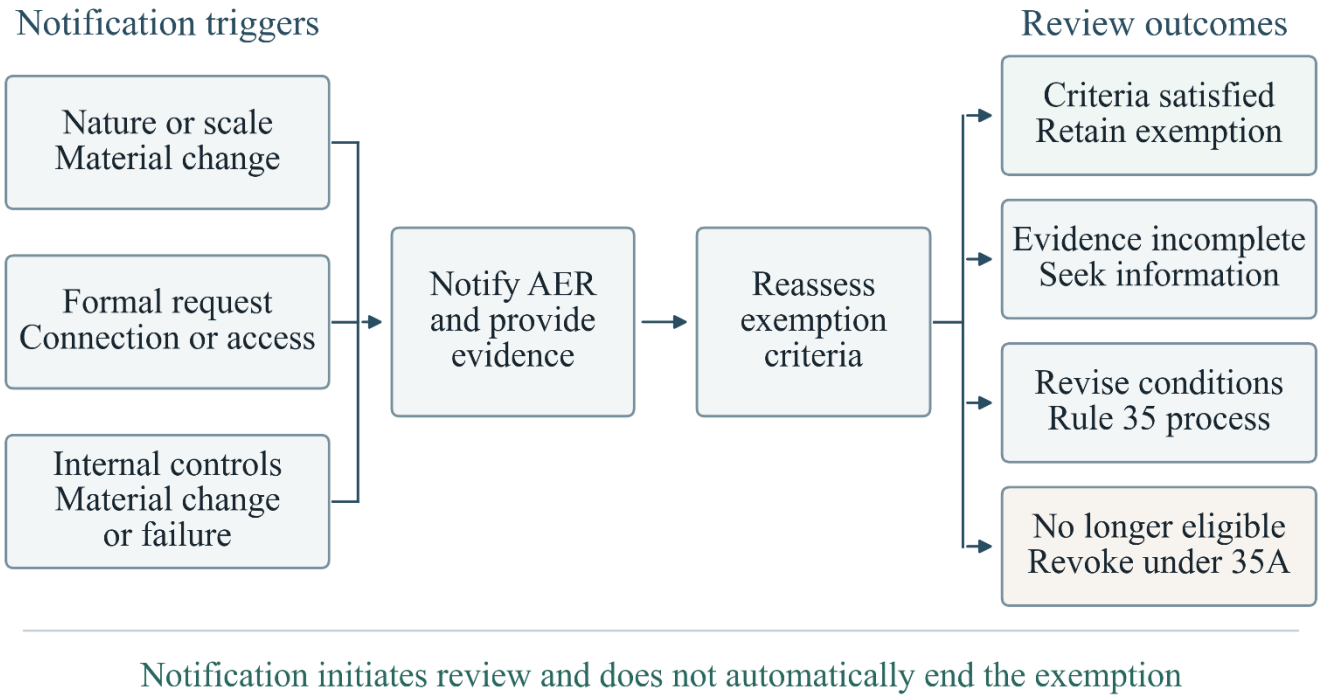


Figure 3. Proposed notification and reassessment pathway. Notifications support review of continued eligibility, with retention, further information, condition variation or revocation subject to the applicable regulatory procedures.

Notification initiates assessment, not automatic termination. Where relevant criteria cease to be satisfied, revocation is mandatory under rule 35A. Rule 35F addresses material errors or deficiencies rather than changed operating circumstances [2]. Record the evidence and reasons for the response.

6. Consolidated recommendations and implementation

Establish the baseline and control mapping at commencement, clarify notification guidance, and integrate annual assurance with suitable existing reporting. Distinguish binding conditions from guidance and identify the legal mechanism for any new requirement. The burden ratings below are qualitative and assume usable existing records.

Recommendation	Change sought	Decision location	Burden
R1 Baseline	Dated scale, boundaries, activities and safeguards.	Assessment and project schedule.	Low
R2 Safeguards	Traceable allocations, controls and verification.	Internal-controls assessment; continuing obligations.	Low–moderate
R3 Access	Enquiries, responses and unresolved issues.	Condition 2 and supporting records.	Low
R4 Notification	Triggers, initial information and follow-up.	Conditions and reporting guidance.	Low
R5 Assurance	Annual confirmation and reassessment pathway.	Lawful reporting arrangements and reasons.	Low if integrated

Before requiring extra returns, identify the information gap and whether an existing submission already supplies the evidence. Use stable project identifiers and cross-references so operational changes, notifications and corrective actions can be followed over time. This should reduce repeated requests while preserving the AER's ability to investigate material concerns. These measures would preserve the efficiency benefits of the exemptions while enabling timely action when their underlying circumstances change. Their value lies in giving the AER evidence sufficient to retain, adjust or revoke an exemption on a reasoned basis.

References

1. Australian Energy Regulator. (2026, October). Ring-fencing exemption determination—AGN: Draft decision. Link.
2. Australian Energy Regulator. (2024, November 1). Gas ring fencing decision guide. Link.
3. Martinez-Rodriguez, M., Chyong, C. K., Fitzgerald, T., Vazquez, M., & Hidalgo, A. (2026). Pipeline regulation for hydrogen: Choosing between paths and networks. Energy Policy, 208, Article 114846. https://doi.org/10.1016/j.enpol.2025.114846
4. Baumgart, M., & Lavrijssen, S. (2023). Exploring regulatory strategies for accelerating the development of sustainable hydrogen markets in the European Union. Journal of Energy & Natural Resources Law. Advance online publication. https://doi.org/10.1080/02646811.2023.2257528
5. Melaina, M. W., Antonia, O., & Penev, M. (2013). Blending hydrogen into natural gas pipeline networks: A review of key issues (NREL/TP-5600-51995). National Renewable Energy Laboratory. https://doi.org/10.2172/1068610
6. Federal Energy Regulatory Commission. (2008, July 17). Cross-subsidization restrictions on affiliate transactions: Order No. 707-A (124 FERC ¶ 61,047). Link.
7. European Parliament and Council of the European Union. (2024). Directive (EU) 2024/1788 of 13 June 2024 on common rules for the internal markets for renewable gas, natural gas and hydrogen. Official Journal of the European Union. Link.
8. Office of Gas and Electricity Markets. (2020, July). Guidance for innovators: Energy regulation sandbox. Link.
9. Australian Energy Market Commission. (2024). National Gas Rules: Schedule 7—Transitional provisions for the introduction of the other gas amendments, Part 2, rule 2. Link.
10. National Association of Regulatory Utility Commissioners, Staff Subcommittee on Accounts. (n.d.). Guidelines for cost allocations and affiliate transactions. Link.
11. Office of Gas and Electricity Markets. (2025). RIIO-2 gas distribution price control: Regulatory instructions and guidance (Version 1.17). Link.
12. Ganjovi, A., & Gorji, S. A. (2026, August). From capital expenditure to delivered capability: Strengthening project-to-outcome traceability in the AER's standardised CAPEX models [Submission to the Australian Energy Regulator]. Centre for Smart Power and Energy Research, Deakin University. Link.
13. Federal Energy Regulatory Commission. (2008, October 16). Standards of conduct for transmission providers: Order No. 717 (Docket No. RM07-1-000). Link.
14. Australian Energy Market Operator. (n.d.). About the Short Term Trading Market (STTM). Retrieved November 4, 2026. Link.
15. Federal Energy Regulatory Commission. (n.d.). Fact sheet: Capacity release. Retrieved November 4, 2026. Link.
16. Clean Energy Regulator. (n.d.). Using PGO certificates for renewable gas claims. Retrieved November 4, 2026. Link.
17. Department for Business, Energy & Industrial Strategy. (2021). Options for a UK low carbon hydrogen standard [Technical report]. Link.
18. GreenPower. (2025, July 3). Renewable gas certification rules (Version 3.0). Link.
19. Li, C., White, L. V., Fazeli, R., Skobeleva, A., Thomas, M., Wang, S., & Beck, F. J. (2026). Assessing emission certification schemes for grid-connected hydrogen in Australia. Communications Sustainability, 1, Article 19. https://doi.org/10.1038/s44458-025-00019-1
20. Federal Energy Regulatory Commission. (2026, August 18). Self-reports. Link.
21. Australian Energy Regulator. (2024, June 7). Final decision: Annual Compliance Order [Regulatory decision]. Link.
22. Ganjovi, A., & Gorji, S. A. (2026). Decision-useful observability for inverter-dominated electricity systems: Framework development and Australian applications. Energy Informatics. https://doi.org/10.1186/s42162-026-00699-6
23. Ganjovi, A., & Gorji, S. A. (2026, July). Regulatory observability, consumer-risk visibility, and adaptive governance in Essential Energy's plug-and-play EV charging infrastructure trial [Submission to the Australian Energy Regulator]. Centre for Smart Power and Energy Research, Deakin University. Link.