

V. FERC HAS NO MANDATE FOR DEVELOPERS TO FILE PETITIONS FOR DECLARATORY ORDER

From Pivotal introduction: *“The Petition identifies no need for the Commission to regulate small-scale and other inland liquefied natural gas (“LNG”) facilities.”*

From Pivotal I: *“If the relief requested in the Petition is granted, the Commission would overturn years of precedent and previous jurisdictional determinations directly applicable to Pivotal LNG’s facilities.”*

From Pivotal III.A.1: *“ Indeed, the Commission’s regulations permit companies to file petitions for declaratory order specifically to “remove uncertainty.””*

Response: In case after case, the “years of precedent” have been based, in great part, on the Commission’s disclaiming of jurisdiction in the Pivotal decision. Yes, companies are permitted to file Petitions for Declaratory Order, but without a formal Rulemaking, there is no mandate requiring them to do so, and that is why we need a Rulemaking to remove uncertainty.