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December 23, 2013

13-161-LNG

Ms. Larine A. Moore
U.S. Department of Energy
1000 Independence Avenue, SW
Room 3E-042, FE-34
Washington DC 20026-4375

Re: In the Matter of Gasfin Development USA, LLC
FE Docket No. 13-__-LNG
Application For Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations

Dear Ms. Moore:

Enclosed for filing on behalf of Gasfin Development USA, LLC ("Gasfin"), please find Gasfin's application for long-term, multi-contract authorization to engage in exports of up to 74 Billion cubic feet per year of natural gas in the form of liquefied natural gas ("LNG"), which is the equivalent of approximately one and a half (1.5) million metric tons per annum of LNG.¹ Gasfin seeks authorization for a 20-year term, commencing on the date of first export, with such first export to occur no later than eight (8) years from the date the authorization is issued, to export LNG to non-FTA nations with which trade is not prohibited by U.S. law or policy, and that currently has or develops the capacity to import LNG.

Please acknowledge receipt of this letter and its enclosures by date-stamping the provided copy of this filing and returning it to the undersigned in the enclosed federal express envelope.

Should you have any questions about the foregoing, please feel free to contact the undersigned at 202-585-8372.

Respectfully submitted,

Pierce Haesung Han

¹ A check in the amount of \$50.00 is provided as the filing fee stipulated by 10 C.F.R. § 590.207 (2013).

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY**

**In The Matter Of:
GASFIN DEVELOPMENT USA, LLC**

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Docket No. 13-__-LNG

**APPLICATION FOR LONG-TERM AUTHORIZATION
TO EXPORT LIQUEFIED NATURAL GAS
TO NON-FREE TRADE AGREEMENT NATIONS**

Pursuant to Section 3 of the Natural Gas Act (“NGA”), 15 U.S.C. § 717b (2006), and Part 590 of the Department of Energy’s (“DOE”) regulations, 10 C.F.R. Part 590 (2012), Gasfin Development USA, LLC (“Gasfin”) hereby requests that DOE, Office of Fossil Energy (“FE”), grant long-term, multi-contract authorization for Gasfin to engage in exports of up to 74 Billion cubic feet per year (“Bcf/y”) (or 0.2 Bcf per day (“Bcf/d”))¹ of natural gas in the form of liquefied natural gas (“LNG”) for a 20-year term.

Gasfin is seeking this export authorization in conjunction with its proposal to develop, own and operate the Gasfin LNG Export Project (“Project”), a mid-scale natural gas liquefaction and LNG export terminal to be located along the Calcasieu River in Cameron Parish, Louisiana. Gasfin currently has received long-term authorization for the Project from DOE/FE to export 74 Bcf/y of natural gas in the form of LNG to any nation with which the United States currently has, or in the future enters into, a Free Trade Agreement (“FTA”).² Herein, Gasfin is seeking authorization, commencing on the earlier of the date of first export or eight (8) years from the date authorization is issued, to export LNG to any nation with which trade is not prohibited by

¹ Equivalent to approximately one and a half (1.5) million metric tons per annum (“mtpa”) of LNG.

² See *Gasfin Development USA, LLC*, DOE/FE Order No. 3253 (March 7, 2013).

U.S. law or policy, and that currently has or develops the capacity to import LNG (“non-FTA Authorization”).

In support of its application, Gasfin states as follows:

(A) 10 C.F.R. § 590.202(a):

1. Name of applicant

The exact name of Gasfin is Gasfin Development USA, LLC. Gasfin is a limited liability company organized under the laws of Delaware with a principal place of business located at 65 Rue des Romains, L-8041 Strassen, Luxembourg; and registered address of 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808. Gasfin’s telephone number is +44 20 3432 8510 and its fax number is +44 20 3369 9695.

2. Applicant contact information

All correspondence and communications concerning this application, including all service of pleadings and notices, should be directed to the following persons:³

Roland Fisher
Chief Executive Officer
Gasfin Development S.A.
65 Rue des Romains
L-8041 Strassen
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Telephone: +44 20 3369 9690
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3. Requested authorization

Gasfin requests long-term, multi-contract authorization to export up to 74 Bcf/y of natural gas in the form of LNG, which is the equivalent of approximately one and a half (1.5)

³ Gasfin requests waiver of Section 590.202(a) of DOE’s regulations, 10 C.F.R. § 590.202(a), to the extent necessary to include outside counsel on the official service list in this proceeding.

mtpa, by vessel from the Project to non-FTA nations for a 20-year term. Gasfin requests that such authorization commence on the date of first export, with such first export to occur no later than eight (8) years following issuance of the authorization requested herein. Gasfin currently has long-term authorization from DOE/FE to export 74 Bcf/y of natural gas in the form of LNG to FTA nations.

Gasfin is requesting this authorization in order to act on its own behalf and as agent for third parties. Gasfin will comply with all DOE/FE requirements for exporters and agents, including the registration requirements as first established in *Freeport LNG Development, L.P.*, DOE/FE Order No. 2913, and most recently set forth in *Freeport LNG Expansion, L.P. and FLNG Liquefaction – (collectively FLEX)*, DOE/FE Order No. 3357. In this regard, Gasfin, when acting as agent, will register with DOE/FE each LNG title holder for whom it seeks to export gas as agent, and will provide DOE/FE with a written statement by the title holder acknowledging and agreeing to (i) comply with all requirements in Gasfin's long-term export authorization; and (ii) include those requirements in any subsequent purchase or sale agreement entered into by the title holder. Gasfin will also file, or cause to be filed, any relevant long-term commercial agreements that it enters into with the LNG title holders on whose behalf the exports are performed.

Gasfin currently is engaged in commercial discussions with various potential regional and international customers for the Project and has not yet entered into long-term supply and long-term LNG purchase and sale or export agreements. Gasfin has commenced negotiations with the neighboring pipelines for transportation capacity, interconnection points and development of a three to eleven-mile-long pipeline to transport gas to the Project and will

finalize these arrangements once commercial discussions with potential customers' progress. Gasfin will submit transaction-specific information when such contracts are executed.

Gasfin respectfully requests that the DOE/FE issue the non-FTA Authorization as requested herein. In this regard, Gasfin requests that the non-FTA Authorization be issued as a conditional order, pursuant to Section 590.402 of the DOE regulations,⁴ followed by issuance of a final order immediately upon completion of the environmental review of the Project by FERC.⁵

4. Justification for the action sought

Gasfin's request for Non-FTA Authorization must be reviewed under Section 3(a) of the NGA, which provides that DOE/FE is required to authorize exports to a foreign country unless there is a finding that such exports "will not be consistent with the public interest."⁶ Section 3(a) of the NGA states in relevant part:

(a) Mandatory authorization order

After six months from June 21, 1938, no person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order for the Commission authorizing it to do so. The Commission shall issue such order upon application, unless, after opportunity for hearing, it finds that the proposed exportation or importation will not be consistent with the public interest.⁷

Section 3(a) creates a presumption in favor of approval of an application for non-FTA authorization, which opponents bear the burden of overcoming. Even disregarding this

⁴ 10 C.F.R. § 590.402 (2012).

⁵ In promulgating its regulations setting forth the administrative procedures for the import and export of natural gas, DOE indicated that issuance of a conditional decision is appropriate when the application at issue involves, for example, the importation of LNG into new terminal facilities. *See Import and Export of Natural Gas*, 46 Fed. Reg. 44,696, 44,700 (September 4, 1981). In such a case DOE reviews the application to determine if the proposed importation is in the public interest based on the considerations within DOE's jurisdiction, while, concurrently, FERC must review other aspects of the proposed importation such as siting, construction and operation of the LNG receiving terminal facilities. *See id.*

⁶ 15 U.S.C. § 717b(a).

⁷ *Id.*

presumption in favor of approval, there is ample evidence in the public record that exports of LNG, such as those requested by Gasfin in this Application, are in the public interest. In this regard, in the granting of recent requests for export authorization⁸, DOE/FE pointed to the market studies and other evidence and comments submitted by the respective applicants demonstrating the substantial economic and public benefits that are likely to follow from exports of natural gas as LNG. That same rationale is equally applicable here. Gasfin makes specific reference to the macroeconomic study commissioned by DOE and discussed in this application, as well as to the multitude of letters from members of the United States Congress submitted in response to the NERA Study supporting approval of the export of domestic natural gas as LNG⁹ and the recently released ICF study on state level impacts on energy markets and the economy (“ICF State-Level Study”).¹⁰ Finally, because Gasfin intends to sell natural gas from the Project

⁸ See *Sabine Pass Liquefaction, LLC*, DOE/FE Order Nos. 2961, 2961-A and 2961-B; *Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC*, DOE/FE order No. 3282; *Lake Charles Exports, LLC*, DOE/FE Order No. 3324; *Dominion Cove Point LNG, LP*, DOE/FE Order No. 3331.

⁹ See, e.g., Ltr. from U.S. Sens. James M. Inhofe, Mary Landrieu, David Vitter, Mark Begich and Tom Coburn to Hon. Steven Chu, Sec’y, DOE (Feb. 20, 2013), available at http://www.coburn.senate.gov/public/index.cfm?a=Files.Serve&File_id=23fb206c-b12c-4c1a-a597-1e6b7c9dc772; Ltr. from U.S. Sen. Lisa Murkowski to Hon. Steven Chu, Sec’y, DOE (Jan. 25, 2013), available at http://www.fossil.energy.gov/programs/gasregulation/authorizations/export_study/Lisa_Murkowski01_24_13.pdf; Ltr. from U.S. Sen. John Cornyn to Hon. Steven Chu, Sec’y, DOE (Jan. 24, 2013), available at http://www.fossil.energy.gov/programs/gasregulation/authorizations/export_study/john_cornyn_Exec.pdf; Ltr. from U.S. Sen. James M. Inhofe to Hon. Steven Chu, Sec’y, DOE (Jan. 23, 2013), available at http://www.fossil.energy.gov/programs/gasregulation/authorizations/export_study/holland_luke_Inhofe01_01_23_13.pdf; Ltr. from U.S. Sen. David Vitter to Hon. Steven Chu, Sec’y, DOE (Jan. 23, 2013), available at http://www.fossil.energy.gov/programs/gasregulation/authorizations/export_study/Vitter.pdf; Ltr. from U.S. Sens. Mary L. Landrieu & Heidi Heitkamp to Hon. Steven Chu, Sec’y, DOE (Jan. 23, 2013), available at http://www.fossil.energy.gov/programs/gasregulation/authorizations/export_study/landrie.pdf; Ltr. from U.S. Rep. Charles W. Boustany, M.D., to Hon. Steven Chu, Sec’y, DOE (Jan. 16, 2013), available at http://www.fossil.energy.gov/programs/gasregulation/authorizations/export_study/Boustanyletter.pdf.

¹⁰ ICF International, *U.S. LNG Exports: State-Level Impacts on Energy Markets and the Economy* (November 13, 2013)

under contractual arrangements that will be priced competitively with domestic natural gas, it will satisfy the public interest standard as set forth in DOE's Policy Guidelines.¹¹

(B) 10 C.F.R. § 590.202(b):

1. Project scope

Gasfin herein is seeking multi-contract, long-term authorization to engage in exports of up to 74 Bcf/y of natural gas in the form of LNG. Gasfin is seeking this export authorization in conjunction with its proposal to construct, own and operate the Gasfin LNG Export Project to be located on a 65-acre site along the Calcasieu River in Cameron Parish, Louisiana.¹²

Construction of the Project will occur in up to three (3) phases totaling one and a half (1.5) mtpa. Each phase will be capable of producing at least 0.5 mtpa of LNG which is equivalent of approximately 67.5 million standard cubic feet per day of natural gas. The LNG storage capacity is envisaged to be between 80,000 cubic meters ("m³") and 200,000 m³ which will be completed as single or multiple tanks depending on Project phasing. A single berth will be constructed to accommodate standard and mid-scale LNG carriers in sizes ranging from 10,000 m³ to 174,000 m³. The Project will include a three to eleven-mile-long pipeline to link the Project to the exiting gas pipeline network. Other common facilities will include the control and administration buildings, utilities and a flare.

¹¹ *Policy Guidelines and Delegation Orders Relating to the Regulation of Imported Natural Gas*, 49 Fed. Reg. 6684 (Feb. 22, 1984) [hereinafter Policy Guidelines].

¹² Regulatory approval also must be obtained from the Federal Energy Regulatory Commission ("FERC") under Section 3 of the NGA for the siting, construction and operation of the Project. Gasfin anticipates requesting authorization from the Director of the Office of Energy Projects to commence the FERC's mandatory National Environmental Policy Act pre-filing review process for the Project once commercial discussions with potential customers and project partners have progressed. The potential environmental impact of the Project will be reviewed by FERC in conjunction with that proceeding.

Construction and start-up will commence once the Project is commercially feasible and Gasfin anticipates that the Project will require approximately 30 months for completion and start-up.

2. Source and security of natural gas to be exported

The Project site is located in close proximity to various major interstate and intrastate pipeline systems. For example, the systems of Tennessee Gas Pipeline Company, ANR Pipeline Company and Bridgeline Holdings, L.P. are within approximately three (3) miles of the Project. Within seven (7) miles, the Project also has access to the systems of Columbia Gulf Transmission Company and Natural Gas Pipeline Company of America. In this regard, through construction of a short (*i.e.*, three to eleven-mile-long) pipeline by Gasfin or a third-party pipeline company,¹³ the Project will benefit from interconnections with major pipeline systems that span large regions of the Continental U.S. and cross multiple conventional and unconventional gas plays.¹⁴ Each of these interconnecting pipeline systems has a developed network of additional interconnects with other natural gas pipeline companies. As a result, the Project will have the ability to source gas from almost any point on the U.S. natural gas pipeline grid through direct physical delivery or by displacement on the spot market or pursuant to long-term supply arrangements.¹⁵

3. Identification of participants in the transaction, and affiliations

¹³ A Certificate of Public Convenience and Necessity issued by FERC under Section 7 of the NGA also would be required to construct, own and operate an interstate natural gas pipeline that would bring feed gas and fuel gas to the Project. Gasfin anticipates that the environmental impacts of any such pipeline would be reviewed by FERC in conjunction with FERC's NEPA review of the Project. *See supra* note 12.

¹⁴ Specific interconnections with the neighboring pipelines will be driven by customer demand for delivery/receipt points.

¹⁵ "The U.S. natural gas pipeline network is a highly integrated transmission and distribution grid that can transport natural gas to and from nearly any location in the lower 48 States." Energy Information Administration, *About U.S. Natural Gas Pipelines*, http://www.eia.gov/pub/oil_gas/natural_gas/analysis_publications/ngpipeline/index.html.

Gasfin is a wholly owned subsidiary of Gasfin Development S.A. (“Gasfin Development”), a Luxembourg company that develops, owns and manages mid-scale LNG infrastructure solutions around the globe.¹⁶

Gasfin Development is management controlled by Roland Fisher (CEO) and Vladimir Puklavec (Chairman). Gasfin Development’s affiliated operating group companies are TGE Gas Engineering GmbH (“TGE Gas”)¹⁷ and TGE Marine Gas Engineering GmbH (“TGE Marine”).¹⁸ TGE Gas and TGE Marine are limited companies set up in Bonn, Germany.¹⁹ Gasfin Development management holds 40% of the share capital of TGE Gas and TGE Marine. China International Marine Containers (Group) Co., Ltd. (known as CIMC), a publicly traded Chinese manufacturing group listed on the Shenzhen Stock Exchange, is a 60% shareholder of TGE Gas.²⁰ Caledonia Investments plc (“Caledonia”), a publicly traded UK Investment Trust listed on the London Stock Exchange, is a 60% shareholder of TGE Marine.²¹

4. Terms of the transaction

¹⁶ For example, Gasfin Development has partnered with the National Energy Corporation of Trinidad and Tobago Limited for the development of a 0.5 mtpa liquefaction plant in Trinidad. *See Press Release: Break-through for LNG supplies to the Caribbean region NEC partners with Gasfin to establish a pioneering mid-scale LNG liquefaction plant in Trinidad* (Jun. 1, 2012), http://www.gasfin.net/images/pr_07_06_12.pdf.

¹⁷ TGE Gas is one of the world’s leading contractors for the engineering, procurement, construction and project management of gas storage, handling and processing plants for the energy, oil and gas, petrochemical and chemical industries. TGE Gas has references across four continents and has delivered over 50 cryogenic gas terminals, including world scale and mid-scale LNG terminals in Europe and China. *See* <http://www.tge-gas.com>.

¹⁸ TGE Marine specializes in the design and construction of cargo handling systems for ships and offshore units carrying liquefied cryogenic gases (LNG, LPG and petrochemical gases). To date, TGE Marine has supplied gas handling and storage systems to more than 130 gas tankers, built at more than 20 shipyards across Asia (China, South Korea and Japan), Europe and South America. *See* <http://www.tge-marine.com>.

¹⁹ TGE Gas and TGE Marine were formed as a result of a management buyout in 2006 of Tractebel Gas Engineering GmbH (known as TGE) from Tractebel Engineering, a member of the Suez Group. *See Caledonia leads MBO of Tractebel Gas Engineering GmbH from Tractebel Engineering* (May 16, 2006), <http://www.caledonia.com/rns/view/id/273>.

²⁰ *See* <http://www.cimc.com/en>.

²¹ *See* <http://www.caledonia.com>.

Gasfin has not yet entered into any long-term gas supply or long-term export contracts in conjunction with the LNG export authorizations requested herein. Accordingly, Gasfin is not submitting transaction-specific information (e.g., long-term supply agreements and long-term export agreements) at this time, and requests that DOE/FE make a similar finding to that in DOE/FE Order No. 2961, and most recently set forth in FLEX, DOE/FE Order No. 3357, with regard to the transaction-specific information requested in Section 590.202(b) of the DOE regulations.

Gasfin will file—or cause to be filed—either unredacted contracts, or long-term contracts under seal, with either: (i) a copy of each long-term contract with commercially sensitive information redacted, or (ii) a summary of all major provisions of the contracts including, but not limited to, the parties to each contract, contract term, quantity, any take-or-pay or equivalent provisions/conditions, destinations, re-sale provisions, and other relevant provisions.

5. Price adjustment mechanisms; competitiveness

DOE issued its *Policy Guidelines* in 1984, delineating the criteria that DOE shall utilize in reviewing applications for natural gas imports;²² the agency has applied these criteria in its review of applications for natural gas exports, as well.²³ The *Policy Guidelines* provide that the “policy cornerstone of the public interest standard is competition.”²⁴ Competitive import/export arrangements are therefore an essential element of the public interest and, so long as the sales agreements are set in terms that are consistent with competitively-determined prices of domestic

²² *Policy Guidelines*, *supra* n.11, at 6684.

²³ See *Phillips Alaska Nat. Gas Corp. & Marathon Oil Co.*, DOE/FE Order No. 1473, at 14 (Apr. 2, 1999) (citing *Yukon Pac. Corp.*, DOE/FE Order No. 350, 1 FE ¶ 70,259, at ¶ 71,128 (1989)).

²⁴ *Policy Guidelines*, *supra* n.11, at 6687.

natural gas, they should be considered to “largely” meet the public interest standard.²⁵ Gasfin anticipates reaching contractual arrangements for the authorization sought herein consistent with competitively-determined prices.

6. Lack of national or regional need for the gas to be exported

The primary focus of the DOE/FE’s public interest analysis has been the projected domestic need for LNG proposed to be exported. Domestic need can be measured by comparing domestic natural gas supply against natural gas demand during the proposed export period to ascertain whether there is a domestic need for the natural gas to be exported.

As provided in DOE Delegation Order No. 0204-111, domestic need for the natural gas proposed to be exported is “the only explicit criterion that must be considered in determining the public interest.”²⁶ Publicly available information, demonstrates that the U.S. has significant natural gas resources available to meet projected future domestic needs, including the quantities contemplated for export under this Application. The Project represents 0.3% of projected 2013 domestic marketed natural gas, declining to 0.2% in 2040 and 3.0% of Non-FTA LNG Export Authorizations approved to date.²⁷ It is therefore evident from the current supply/demand balance of natural gas in the United States that the Application’s request for authorizations to export domestic natural gas production will not impinge on any national or regional need for the gas. In this regard, Gasfin submits that the need for the LNG export capability to be provided by the Project is supported by the existing and projected trends concerning U.S. gas demand and supply and as such is not inconsistent with the public interest.

²⁵ *See id.*

²⁶ *Phillips Alaska Nat. Gas Corp. & Marathon Oil Co.*, DOE/FE Order No. 1473, at 14 (Apr. 2, 1999).

²⁷ See EIA, Short-Term Energy and Winter Fuels Outlook (STEO), October 2013, available at <http://www.eia.gov/forecasts/steo/outlook.cfm#issues2013> and *FLEX*, DOE/FE Order No. 3357 at 155, <http://energy.gov/sites/prod/files/2013/09/f2/Order%203331.pdf> (reviewed as at December 18, 2013).

1. Domestic Natural Gas Supply

The Project is supported by the improved outlook for domestic natural gas production owing to drilling productivity gains that have enabled rapid growth in supplies in the Gulf Coast region and elsewhere in the U.S.²⁸ Domestic natural gas production has expanded rapidly in recent years as innovations in new drilling and completion technologies have increased productivity despite a sharp reduction in capital deployed by industry in upstream development.²⁹ Since 2005, U.S. marketed natural gas production has grown 33.9%, to 25.3 Tcf, or 69.3 Bcf/d in 2012, representing what was then the highest production levels in U.S. history.³⁰

The EIA's Annual Energy Outlook 2013 ("AEO 2013") supports the view that the domestic natural gas resource base continues to expand rapidly.³¹ AEO 2013 forecasts annual average increments in domestic dry natural gas production of 1.3% per year between 2011 and 2040, compared to expectations for long-term annual production growth of 1.0% in EIA's previous Annual Energy Outlook 2012 ("AEO 2012").³² AEO 2013 predicts that U.S. dry natural gas production will total 33.14 Tcf (90.8 Bcf/d) by 2040, an increase of 10.14 Tcf (27.8 Bcf/d), or 44.1%, from production levels of 23.0 Tcf (63.0 Bcf/d) in 2011.³³ In its most recent short term

²⁸ Domestic wellhead natural gas production in 2012 totaled 29.8 trillion standard cubic feet ("Tcf"), which is among the highest in U.S. history. See U.S. Energy Information Admin. ("EIA"), Natural Gas Gross Withdrawals and Production, http://www.eia.gov/dnav/ng/ng_prod_sum_dcu_NUS_a.htm (last updated December 12, 2013).

²⁹ According to Baker Hughes, there were 369 rigs drilling for natural gas in the United States during the week ended December 13, 2013, a 45.1% decrease from the 818 rigs targeting natural gas during the week ended December 16, 2011, two years prior. See Baker Hughes, North American Rotary Rig Count, at <http://phx.corporate-ir.net/phoenix.zhtml?c=79687&p=irol-reports&other>.

³⁰ See EIA, *US Natural Gas Marketed Production*, <http://www.eia.gov/dnav/ng/hist/n9050us2a.htm> (last visited December 18, 2013).

³¹ EIA, *Annual Energy Outlook 2013* (April 2013), [http://www.eia.gov/forecasts/aeo/pdf/0383\(2013\).pdf](http://www.eia.gov/forecasts/aeo/pdf/0383(2013).pdf) (last visited December 18, 2013) [hereinafter *AEO 2013*].

³² Compare EIA, *AEO 2013 Table A13, Natural gas supply, disposition and prices*, at 147 [hereinafter *AEO 2013 Table A13*] with EIA, *Annual Energy Outlook 2012 Table A13* at 157 (June 2012), available at [http://www.eia.gov/forecasts/aeo/pdf/0383\(2012\).pdf](http://www.eia.gov/forecasts/aeo/pdf/0383(2012).pdf).

³³ See *AEO 2013 Table A13*.

forecast, the EIA projects domestic natural gas marketed production to increase from 69.2 Bcf/d in 2012 to 70.4 Bcf/d in 2013, the third record breaking year in a row. This trend is expected to continue with 71.4 Bcf/d projected for 2014.³⁴

The robust outlook for future increases in domestic natural gas supply capacity has been reflected in several recent industry evaluations. Proved U.S. reserves of wet natural gas in 2011 expanded by 31.2 Tcf, or 9.8%, to 348.8 Tcf from the year before, according to the EIA, representing the largest quantity of domestic proved natural gas reserves in U.S. history.³⁵ Following an increase of 33.8 Tcf, or 11.9%, in proved gas reserves the year prior, U.S. proved natural gas reserves in 2010 and 2011 expanded by the largest and second-largest annual increase, respectively, since EIA began publishing proved reserve estimates in 1977.³⁶ The Potential Gas Committee of the Colorado School of Mines (“Potential Gas Committee”) in April 2013 raised its prior estimates of the U.S. technically recoverable gas resource base by 486 Tcf, or 25.6%, to 2,384 Tcf at year-end 2012, the highest resource evaluation in the group’s 48-year history.³⁷ Including 305 Tcf of established proved dry natural gas reserves as of year-end 2010, the Potential Gas Committee determined that the United States possesses future available gas

³⁴ See EIA, Short-Term Energy and Winter Fuels Outlook (STEO), December 2013, available at <http://www.eia.gov/forecasts/steo/outlook.cfm#issues2013>.

³⁵ See EIA, *U.S. Crude Oil and Natural Gas Proved Reserves, 2011*, at 1 (Aug. 2013), available at <http://www.eia.gov/naturalgas/crudeoilreserves/pdf/uscrudeoil.pdf>.

³⁶ I EIA, *U.S. Crude Oil, Natural Gas, and Natural Gas Liquids Proved Reserves, 2010*, at 1 (Aug. 2012), available at <http://www.eia.gov/naturalgas/crudeoilreserves/archive/2010/pdf/uscrudeoil.pdf>.

³⁷ See Press Release, *Potential Gas Committee, Potential Gas Committee Reports Significant Increase In Magnitude of U.S. Natural Gas Resource Base*, at 1, 2, 5 (Apr. 9, 2013), available at <http://potentialgas.org/download/pgc-press-release-april-2013.pdf>

supply of 2,688 Tcf.³⁸ Most of the increase arose from the Potential Gas Committee's reevaluation of gas plays in the Gulf Coast, Atlantic and Rocky Mountain areas.³⁹

The Potential Gas Committee resource assessment, EIA's AEO 2013, and other publicly available information demonstrate that the United States has sufficient natural gas resources available at modest prices to meet projected domestic demand over the next 25 years.

2. Domestic Natural Gas Demand

In the AEO 2013 Reference Case, EIA predicts the domestic natural gas market to grow at a 0.7% annual rate through 2040, with demand projected to expand to 29.54 Tcf (80.9 Bcf/d) in 2040 from 24.37 Tcf (66.7 Bcf/d) in 2011.⁴⁰

Natural gas consumption by sector (in Tcf) ⁴⁰

<i>Sector</i>	<i>Actual 2011</i>	<i>Forecast 2040</i>	<i>Compound annual growth rate</i>
Commercial	3.16	3.60	0.4 %
Electric Power	7.60	9.50	0.8 %
Industrial	8.16	10.51	0.9 %
Residential	4.72	4.14	-0.5 %
Transportation	0.72	1.80	3.2 %
<i>Total</i>	<i>24.37</i>	<i>29.54</i>	<i>0.7 %</i>

The industrial and electrical power sectors are forecast to continue as the largest consumers of natural gas. Modest increases in consumption of 0.9 % and 0.8 % respectively will be primarily driven by the very low gas prices fueling the switch from coal to natural gas for power generation and growth in industrial output by energy-intensive industries including 0.7 Tcf used in Gas To Liquids, which is largely consumed in the transportation sector.

³⁸ See *id.* at 2, 5.

³⁹ See *id.*

⁴⁰ See AEO 2013 Table A13.

The transportation sector is forecast to record the largest annual increase of 3.2 % albeit from a small base of 0.72 Tcf in 2011 primarily as a result of incentives and low gas prices leading to increased demand for natural gas as a fuel for heavy duty vehicles.

The residential sector is the only sector where the EIA forecasts a contraction in future consumption of natural gas as customer growth is offset by efficiency gains and household migration to milder climates.

3. Supply-Demand Balance Supports the Lack of National Need

Trends in the U.S. natural gas market make evident that there is little, if any, domestic need for the natural gas that would be exported as a result of the requested authorization. U.S. natural gas production has been growing at almost twice the rate of domestic demand growth since 2005.⁴¹ The inability of the U.S. market to absorb incremental supplies has slowed investments in natural gas development and forced the shut-in of actively producing wells in marginal natural gas fields,⁴² creating spare capacity and non-productive resources.⁴³ These trends demonstrate that available natural gas reserves exceed current demand, and that future resources exist well in excess of projected long-term domestic needs.

⁴¹ Marketed production of natural gas grew by 6.4 Tcf from 18.9 Tcf in 2005 to 25.3 Tcf in 2012, compared to growth of 3.5 Tcf in domestic consumption, from 22.0 Tcf to 25.5 Tcf over the same seven-year period. Compare EIA, *U.S. Natural Gas Marketed Production* at <http://www.eia.gov/dnav/ng/hist/n9050us2a.htm> with EIA, *U.S. Natural Gas Total Consumption* at <http://www.eia.gov/dnav/ng/hist/n9140us2a.htm> (last visited December 18, 2013).

⁴² Numerous articles have documented the widespread shut-in of natural gas due to prices and later the impact on producers' reserves and valuations. See, e.g., *Encana reverses loss, will shut in 600,000 Mcf/d*, Gas Daily, Apr. 26, 2012, at 1; *Chesapeake Slashes Gas Drilling, Production*, Oil Daily, Jan. 24, 2012, at 1; *Low U.S. natural gas price seen sapping reserves, valuations*, Reuters, Jan. 18, 2013, available at <http://www.reuters.com/article/2013/01/18/us-oilgas-reserves-idUSBRE90H07N20130118> (last visited December 18, 2013).

⁴³ Proved non-producing natural gas reserves totaled 118.2 Tcf in 2011, the largest ever recorded. See EIA, *Proved Nonproducing Reserves*, http://www.eia.gov/dnav/ng/ng_enr_nprod_a_EPG0_R9908_Bcf_a.htm (last visited December 18, 2013).

The Reference Case of the AEO 2013 provides that domestic demand growth for natural gas will average 0.7% annually over the next 30 years, leading to a domestic market of 29.54 Tcf by 2040.⁴⁴ Over this same period of time, domestic natural gas production is projected to grow by 1.3% per year on average, or approximately twice the rate of growth in domestic natural gas demand.⁴⁵ The AEO 2013 forecast anticipates that the U.S. will become a net exporter of natural gas after 2020.⁴⁶ Domestic natural gas production is expected to exceed domestic consumption by 3.6 Tcf (9.86 Bcf/d) by 2040.⁴⁷ This surplus of deliverable supply in excess of foreseeable U.S. market demand demonstrates that resources are available for export and would not interfere with the public interest.

The supply/demand imbalance has contributed to the current and forecast low prices for natural gas in the U.S. resulting in decreased investment by the natural gas industry, as well as reductions in associated economic activity, landowner royalties, taxes and fee income. Gasfin is of the view that this and other proposed export projects support and encourage the continued development and investment of natural gas resources during times when domestic prices of natural gas are depressed thereby mitigating some of the production and price volatility that would otherwise result through the commodity market cycle.

4. Price Impacts

The EIA and other publicly-available information demonstrate that the U.S. has sufficient natural gas resources available at modest prices to meet projected domestic demand over the export period requested by Gasfin in this Application.

⁴⁴ See AEO 2013 Table A13.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

The natural gas industry has benefited in recent years from the completion of numerous econometric studies by EIA and other third-party analysts that project the impact on domestic natural gas markets that would result from future LNG exports. Of the most recent:

- (1) The NERA Study concluded, amongst others that:
 - a. The initial price impacts associated with LNG exports would likely range from zero to \$0.33 per Mcf, and that the largest price impacts after five years of growing LNG exports would range from \$0.22 to \$1.11 per Mcf. The high end of this range would result from an extreme demand scenario under which large volumes of export capacity are added at a rapid rate owing to a global demand shock that occurs in conjunction with restrictions on supplies into the international market from other LNG-producing sources⁴⁸; and
 - b. LNG exports will provide a net economic benefit to the United States, regardless of the amount of LNG that is exported.⁴⁹

The NERA Study is based on assumptions used by the EIA in its AEO 2011 for all modeling scenarios,⁵⁰ including those for future domestic natural gas recovery costs, delivered prices and resource availability. The most updated forecast released by EIA as AEO 2013 indicates a more favorable market outlook compared to the AEO 2011, where greater volumes of future supply are available at lower prices to consumers and will support not only exports but

⁴⁸ See NERA Study, at 42–44, 51, 76.

⁴⁹ See NERA Study, NERA explained in its study that it analyzed the impact of LNG exports on the U.S. economy using several different “market scenarios” by making different assumptions about levels of exports, global market conditions, and the cost of producing natural gas in the U.S. *Id.* at 1. Ultimately NERA concluded that “[a]cross all these scenarios, the U.S. was projected to gain net economic benefits from allowing LNG exports.” *Id.* Furthermore, NERA noted that “for every one of the market scenarios examined, net economic benefits increased as the level of LNG exports increased.” As such “scenarios with unlimited exports always had higher net economic benefits than corresponding cases with limited exports.” *Id.*

⁵⁰ NERA Study, at 4.

additional domestic demand. Between 2013 and 2035, domestic gas production in AEO 2013 is projected to total 640.7 Tcf, or 16.1% greater than the cumulative production of 551.6 Tcf estimated in AEO 2011, while Henry Hub spot prices between 2013 and 2035 are estimated to average approximately \$4.66 per million Btu, a reduction of \$1.04, or 17.3%, compared to the average of the future price incorporated in the NERA Study.⁵¹ Domestic demand between 2013 and 2035 is projected to total 617.7 Tcf in AEO 2013, an increase of 5.6% compared to cumulative consumption of 584.9 Tcf estimated in AEO 2011 over the same period.⁵² The revisions to the outlook in AEO 2013 from AEO 2011 represent an additional 89.1 Tcf of cumulative domestic gas production over the 2013-2035 period, 171.7% more than the 32.8 Tcf upward adjustments in expectations for cumulative domestic consumption over the same period in the AEO 2013 forecast.

The ICF State-Level Study further supports the net economic benefit analysis by concluding, amongst others that:

- a. Net gross domestic product gains in natural gas producing states of up to \$ 10 to \$31 billion and up to \$ 2.6 to \$ 5.0 billion for non-natural gas producing states by 2035; and
- b. LNG exports are expected to contribute up to 665,000 net jobs gains nationwide in 2035 with natural gas producing states expected to achieve 60,000-155,000 job gains and large manufacturing states expected to achieve job gains of 30,000-38,000.

⁵¹ Compare AEO 2013 Table A13, with AEO, *Annual Energy Outlook 2011, Natural Gas Supply, Disposition and Prices, Reference case*, available at <http://www.eia.gov/oiaf/aeo/tablebrowser/#release=AEO2011&subject=0-AEO2011&table=13-AEO2011®ion=0-0&cases=ref2011-d020911a> (last visited December 18, 2013).

⁵² *Id.*

DOE has recognized that updates to the AEO 2013 “suggest domestic supply and demand conditions that are more favorable, not less favorable, to exports.”⁵³ AEO 2013 makes evident that larger volumes of natural gas have been identified and are available to meet consumer demand at lower prices than forecast by the NERA Study. It stands to reason that the increase in the price elasticity of U.S. supply evident between the AEO 2011 and AEO 2013 forecasts would result in lower price fluctuations associated with LNG exports or other forms of market expansion than suggested by the NERA Study.

7. Environmental impact

The potential environmental impact of the Project will be reviewed by FERC as the lead agency in accordance with the Energy Policy Act of 2005, which amended the NGA to streamline the process for reviewing and approving natural gas projects, including LNG facilities.⁵⁴ The NGA expressly provides FERC with lead agency status for the purposes of coordinating all applicable federal authorizations and complying with the National Environmental Policy Act (“NEPA”).⁵⁵ Consistent with these statutes, it is anticipated that DOE/FE will participate as a cooperating agency in FERC’s environmental review process for the Project. DOE/FE has adopted regulations of the Council on Environmental Quality (“CEQ”) that govern its role as a cooperating agency in the NEPA process.⁵⁶ DOE’s regulations provide that “DOE shall cooperate with the other agencies in developing environmental information.”⁵⁷

⁵³ See *Lake Charles Exports, LLC*, DOE/FE Order No. 3324, at 74–75 (Aug. 7, 2013).

⁵⁴ See Pub. L. No. 109-508, § 311(c)(2), 119 Stat. 594, 685 (2005) (codified at 15 U.S.C. § 717b(e)).

⁵⁵ See 15 U.S.C. § 717n(b)(1) (2012).

⁵⁶ See 10 C.F.R. § 1021.103 (2012).

⁵⁷ See *id.* § 1021.342; see also 40 C.F.R. §§ 1501.6, 1508.5 (2012) (requiring that Federal agencies responsible for preparing NEPA analyses and documentation do so in cooperation with State and local governments and other agencies with jurisdiction by law or special, and providing that—upon request of the lead agency—any other Federal agency which has jurisdiction by law shall be a cooperating agency).

CEQ's regulations further provide for DOE/FE to adopt FERC's findings so long as FERC has satisfactorily addressed any comments raised by DOE/FE during the cooperating agency process.⁵⁸

WHEREFORE, Gasfin respectfully requests that DOE/FE grant its request for long-term, multi-contract authorization to engage in exports of up to 74 Billion cubic feet per year ("Bcf/y") of domestically produced natural gas in the form of liquefied natural gas ("LNG") from the Project to non-FTA nations, for a 20-year period commencing the date of first export or eight years from the date of issuance of the authorization requested herein.

Respectfully submitted



Allan Ngwata
Chief Investment Officer
Gasfin Development S.A.

On behalf of Gasfin Development USA, LLC

Dated: December 20, 2013

⁵⁸ See 40 C.F.R. § 1506.3 (2012).



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December 23, 2013

Ms. Larine A. Moore
U.S. Department of Energy
1000 Independence Avenue, SW
Room 3E-042, FE-34
Washington DC 20026-4375

**Re: In the Matter of Gasfin Development USA,
FE Docket No. 13-___-LNG
Application For Long-Term Authorization to Export LNG to Non-Free Trade
Agreement Nations – Opinion of Counsel**

Dear Ms. Moore:

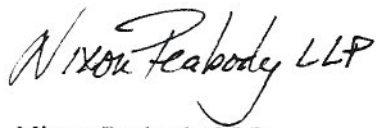
We serve as special counsel to Gasfin Development USA, LLC (“Gasfin”), a Delaware limited liability company, in connection with the submission of Gasfin’s application for long-term authorization to export liquefied natural gas (“LNG”) to export LNG to non-FTA nations with which trade is not prohibited by U.S. law or policy, and that currently has or develops the capacity to import LNG. This opinion of counsel is provided to you in accordance with the requirements of Section 590.202(c) of the Department of Energy’s regulations, 10 C.F.R. § 590.202(c) (2013).

In rendering this opinion we have reviewed and relied upon copies of Gasfin’s (i) Limited Liability Company Agreement, dated December 18, 2012, and (ii) Certificate of Formation, and have concluded that the proposed exportation of LNG is within Gasfin’s limited liability company powers.

The law covered by the opinion expressed herein is limited to the Limited Liability Company Act of the State of Delaware. This opinion of legal counsel is to be interpreted in accordance with customary practice as to the matters addressed, the meaning of the language used and the scope and nature of the work we have performed.

This opinion may be relied upon only by you in connection with the above-referenced application, may not be relied upon by you for any other purpose or by anyone else for any purpose without our prior written consent. This opinion is given as of the date hereof, and we assume no obligation to update this opinion to reflect any facts or circumstances which may hereafter come to our attention or any changes in any laws or regulations which may hereafter occur.

Very truly yours,

A handwritten signature in black ink that reads "Nixon Peabody LLP". The signature is written in a cursive, flowing style.

Nixon Peabody LLP

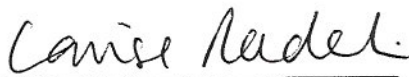
UNITED STATES OF AMERICA DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

VERIFICATION

BEFORE ME, the undersigned authority, on this day personally appeared Allan Ngwata, who, having been by me first duly sworn, on oath says that he is Chief Investment Officer for Gasfin Development S.A. and is duly authorized under the laws of the United States to make this Verification; that he has read the foregoing instrument and that the facts therein stated are true and correct to the best of his knowledge, information and belief.


Allan Ngwata

SWORN TO AND SUBSCRIBED before me on the 20th day of December, 2013.


Name: _____ Louise Radakin
Notary Public
Title: Notary Public Winchester
Hampshire, England

My Commission expires:

on death

