UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

FEDERAL ENERGY REGULATORY COMMISSION,

Plaintiff,

v.

BARCLAYS BANK PLC, DANIEL BRIN, SCOTT CONNELLY, KAREN LEVINE, and RYAN SMITH,

Defendants.

No. 2:13-cv-2093-TLN-DAD

**SCHEDULING ORDER**

The parties have briefed the nature of the subsequent proceedings in a joint status report and in supplemental briefing.[1] (ECF Nos. 97, 101, 103.) In consideration of those arguments the Court issues the following Scheduling Order:

- Within 30 days after issuance of this Order, FERC shall file with the Court the administrative record used by FERC in assessing civil penalties.
- Within 30 days of the filing of the record, FERC shall file a motion for an order affirming the civil penalties assessed by FERC.
- Within 60 days of the filing of FERC's motion, Defendants shall file an opposition.

[1] Defendants' motion for leave to file a memorandum on the scope of de novo review under the Federal Power Act (ECF No. 102) is denied.

- Within 21 days of the filing of Defendants' opposition, FERC may file a reply.

The Court will review FERC's assessment to determine whether penalties shall be affirmed, vacated, or modified. 16 U.S.C. § 823b(d)(3)(B). The Court will also consider whether a determination as to this assessment requires supplementation of the record submitted by FERC and/or alternative means of fact-finding.

The Court hereby bifurcates its determination of disgorgement from its review of liability and the assessed civil penalties. The Court finds bifurcation facilities a just and expeditious resolution of this litigation. *Exxon Co. v. Sofec, Inc.*, 54 F.3d 570, 575 (9th Cir. 1995). Accordingly, the parties may address issues relevant to disgorgement only to the extent they are relevant to the Court's review of liability and civil penalties. If necessary at a later date the Court will set forth a schedule for a determination of disgorgement.

Dated: October 1, 2015

Troy L. Nunley
United States District Judge