

1 FEDERAL ENERGY REGULATORY COMMISSION
 2 NORMAN C. BAY
 Director, Office of Enforcement
 WESLEY J. HEATH
 3 Wesley.Heath@ferc.gov
 TODD L. BRECHER
 4 Todd.Brecher@ferc.gov
 EMILY C. SCRUGGS
 5 Emily.Scruggs@ferc.gov
 Office of Enforcement
 6 888 1st Street, N.E.
 Washington, DC 20426
 7 Telephone: (202) 502-8100

8 Attorneys for FEDERAL ENERGY
 REGULATORY COMMISSION

9 *Please see continuation page for a complete*
 10 *list of the parties and their respective counsel.*

11 IN THE UNITED STATES DISTRICT COURT
 12 FOR THE EASTERN DISTRICT OF CALIFORNIA

14 FEDERAL ENERGY REGULATORY)	CASE NO.: 2:13-cv-02093-TLN-DAD
COMMISSION,)	
)	JOINT STIPULATION AND ORDER
15 Petitioner,)	RE: ACCEPTANCE OF SERVICE AND
)	EXTENSION OF
16 v.)	PLEADING/BRIEFING SCHEDULE
)	
17 BARCLAYS BANK PLC; DANIEL BRIN;)	Presiding: Hon. Troy L. Nunley
18 SCOTT CONNELLY; KAREN LEVINE; and)	Courtroom: 2
RYAN SMITH,)	Trial Date: None Set
)	
19 Respondents. ¹)	
)	

21
 22
 23
 24 ¹ Barclays Bank PLC (“Barclays”) and the individual traders named herein,
 25 Daniel Brin, Scott Connelly, Karen Levine and Ryan Smith (collectively, the “Individual Traders”) specifically challenge, and reserve all rights with respect to, the Federal Energy Regulatory
 26 Commission’s (“FERC”) characterization of its initial pleading as a “Petition” as opposed to a
 “Complaint” and its characterization of the parties as “Petitioner” and “Respondents” as opposed to
 27 “Plaintiff” and “Defendants.” Barclays and the Individual Traders note that to date there has been
 no adversary proceeding where Barclays and the Individual Traders conducted discovery nor has
 there been a merits determination by an administrative law judge after a hearing or trial. Barclays’
 28 and the Individual Traders’ position is that this Court is required to assess the factual and legal
 issues raised by FERC’s claims *de novo*. See 16 U.S.C. § 823b(d)(3)(B).

CONTINUATION SHEET: PARTIES AND THEIR RESPECTIVE COUNSEL

- 1
2 THOMAS J. NOLAN (SBN 66992)
Thomas.Nolan@skadden.com
3 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
300 South Grand Avenue
4 Los Angeles, California 90071-3144
Telephone: (213) 687-5000
5 Facsimile: (213) 687-5600
- 6 JAY B. KASNER (*Pro Hac Vice Application pending*)
Jay.Kasner@skadden.com
7 STEVEN R. GLASER (*Pro Hac Vice Application pending*)
Steven.Glaser@skadden.com
8 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
4 Times Square
9 New York, New York 10036
Telephone: (212) 735-3000
10 Facsimile: (212) 735-2000
- 11 PATRICK FITZGERALD (*Pro Hac Vice Application pending*)
Patrick.Fitzgerald@skadden.com
12 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
155 North Wacker Drive
13 Chicago, Illinois 60606
Telephone: (312) 407-0700
14 Facsimile: (312) 407-0411
- 15 JOHN N. ESTES III (*Pro Hac Vice Application pending*)
John.Estes@skadden.com
16 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
1440 New York Avenue, N.W.
17 Washington, D.C. 20005
Telephone: (202) 371-7000
18 Facsimile: (202) 393-5760
- 19 GREGORY A. MARKEL (*Pro Hac Vice Application pending*)
Greg.Markel@cwt.com
20 JASON M. HALPER (*Pro Hac Vice Application pending*)
Jason.Halper@cwt.com
21 CADWALADER, WICKERSHAM & TAFT LLP
One World Financial Center
22 New York, New York 10281
Telephone: (212) 504-6000
23 Facsimile: (212) 504-6666
- 24 PAUL J. PANTANO JR. (*Pro Hac Vice Application pending*)
Paul.Pantano@cwt.com
25 CADWALADER, WICKERSHAM & TAFT LLP
700 Sixth Street, N.W.
26 Washington, D.C. 20001
Telephone: (202) 862-2410
27 Facsimile: (202) 862-2400
- 28 Attorneys for BARCLAYS BANK PLC

1 SUSAN L. GERMAISE (SBN 176595)
sgermaise@mcguirewoods.com
2 McGUIREWOODS LLP
1800 Century Park East, 8th Floor
3 Los Angeles, California 90067
Telephone: (310) 315-8200
4 Facsimile: (310) 315-8210

5 TODD MULLINS (*Pro Hac Vice Application pending*)
tmullins@mcguirewoods.com
6 McGUIREWOODS, LLP
2001 K Street, N.W.
7 Washington, D.C. 20006-1040
Telephone: (202) 857-1752
8 Facsimile: (202) 828-3320

9 ALLISON D. CHARNEY (*Pro Hac Vice Application pending*)
acharney@mcguirewoods.com
10 McGUIREWOODS LLP
1345 Avenue of the Americas, 7th Floor
11 New York, New York 10105
Telephone: (212) 548-2166
12 Facsimile: (212) 715-6279

13 Attorneys for DANIEL BRIN
and SCOTT CONNELLY

14
15 KRYSTAL N. BOWEN (SBN 163972)
Krystal.Bowen@bingham.com
BINGHAM McCUTCHEN LLP
16 Three Embarcadero Center
San Francisco, California 94111
17 Telephone: (415) 393-2760
Facsimile: (415) 393-2286

18
19 MICHAEL L. SPAFFORD (*Pro Hac Vice Application pending*)
Michael.Spafford@bingham.com
J. BUB WINDLE (*Pro Hac Vice Application pending*)
20 Bub.Windle@bingham.com
BINGHAM McCUTCHEN LLP
21 2020 K Street, N.W.
Washington, D.C. 20006
22 Telephone: (202) 373-6000
Facsimile: (202) 373-6001

23
24 Attorneys for KAREN LEVINE
and RYAN SMITH

25
26
27
28

1 The Federal Energy Regulatory Commission, on the one hand, and Barclays and the
2 Individual Traders, on the other hand, (collectively the “Parties”) by and through their respective
3 counsel, hereby stipulate and agree as follows:

4 **WHEREAS**, FERC filed a “Petition For An Order Affirming The Federal Energy
5 Regulatory Commission’s July 16, 2013 Order Assessing Civil Penalties Against Barclays Bank
6 PLC, Daniel Brin, Scott Connelly, Karen Levine, And Ryan Smith” (the “Petition”) in this action
7 on October 9, 2013;

8 **WHEREAS**, there have been no previous time modifications in this action by stipulation or
9 Court order extending Barclays’ and the Individual Traders’ time to respond to the Petition;

10 **WHEREAS**, the Parties have conferred to discuss service of process of the Petition and
11 agreed upon a resolution that would avoid the costs associated with service of process in exchange
12 for an agreed upon extended timeline for Barclays and the Individual Traders to move, answer, or
13 otherwise respond to the Petition and for an extended timeline for any responses and replies
14 thereto;

15 **WHEREAS**, Barclays and the Individual Traders agree to accept service of process
16 through their attorneys and waive any defenses they may have as to the method, manner, or
17 effectiveness of service of process;

18 **WHEREAS**, the Parties agree, however, that in doing so Barclays and the Individual
19 Traders do not waive but specifically reserve any and all other defenses available to them
20 including, but not limited to, any and all defenses related to jurisdiction and venue;

21 **WHEREAS**, in exchange for Barclays’ and the Individual Traders’ agreement to accept
22 service of process through their attorneys, the Parties have agreed that Barclays’ and the Individual
23 Traders’ time to move, answer, or otherwise respond to the Petition shall be extended until and
24 including December 16, 2013;

25 **WHEREAS**, the Parties have agreed that FERC will have sixty (60) days from the date the
26 final response to the Petition from Barclays or the Individual Traders is served to respond to or
27 oppose any motion that is filed;

28

1 **WHEREAS**, the Parties have agreed that Barclays and the Individual Traders will have up
2 to thirty-five (35) days from the service of FERC’s opposition or response to file any reply briefs;

3 **WHEREAS**, nothing in this Stipulation shall preclude Barclays and the Individual Traders
4 from raising any and all other defenses in answering, moving to dismiss, or otherwise responding
5 to the Petition;

6 **NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED** by and between
7 the Parties, through their undersigned counsel of record, subject to the approval of the Court, as
8 follows:

9 1. Barclays and the Individual Traders will be deemed to have accepted service of the
10 Petition through their attorneys as of October 15, 2013 and waive any and all defenses they may
11 have as to the method, manner, or effectiveness of service of process.

12 2. Barclays and the Individual Traders do not waive but specifically reserve any and
13 all other defenses available to them including, but not limited to, any and all defenses related to
14 jurisdiction and venue.

15 3. Barclays’ and the Individual Traders’ deadline to move, answer, or otherwise
16 respond to the Petition will be extended until and including December 16, 2013.

17 4. FERC will have sixty (60) days from the date the last filed response to the Petition
18 is served by Barclays or the Individual Traders to respond to or oppose any motion that is filed.

19 5. The deadline for any reply to a FERC response will be extended to thirty-five (35)
20 days from the date of service of such response.

21 6. Nothing in this Stipulation shall preclude Barclays and the Individual Traders from
22 raising any and all other defenses in answering, moving to dismiss, or otherwise responding to the
23 Petition.

24
25 **IT IS SO STIPULATED.**
26
27
28

1 DATED: October 24, 2013

FEDERAL ENERGY REGULATORY COMMISSION

2
3 By: _____ /s/
WESLEY J. HEATH

4 Attorneys for FEDERAL ENERGY REGULATORY
5 COMMISSION

6
7 DATED: October 24, 2013

8 SKADDEN, ARPS, SLATE, MEAGHER & FLOM, LLP

9 By: _____ /s/
Thomas J. Nolan

10 Attorneys for BARCLAYS BANK PLC

11
12 DATED: October 24, 2013

13 CADWALADER, WICKERSHAM & TAFT LLP

14 By: _____ /s/
Gregory A. Markel

15 Attorneys for BARCLAYS BANK PLC

16
17 DATED: October 24, 2013

18 McGUIREWOODS, LLP

19 By: _____ /s/
Todd Mullins

20 Attorneys for DANIEL BRIN and SCOTT
21 CONNELLY

22 DATED: October 24, 2013

23 BINGHAM McCUTCHEN LLP

24 By: _____ /s/
Michael L. Spafford

25 Attorneys for KAREN LEVINE
26 and RYAN SMITH

27
28

1 **PROPOSED ORDER**

2 Pursuant to the stipulation of the parties, and for good cause appearing, it is hereby
3 **ORDERED** that:

4 1. Barclays and the Individual Traders will be deemed to have accepted service of the
5 Petition For An Order Affirming The Federal Energy Regulatory Commission’s July 16, 2013
6 Order Assessing Civil Penalties Against Barclays Bank PLC, Daniel Brin, Scott Connelly,
7 Karen Levine, And Ryan Smith (the “Petition”) through their attorneys as of October 15, 2013 and
8 waive any and all defenses they may have as to the method, manner, or effectiveness of service of
9 process.

10 2. Barclays and the Individual Traders do not waive but specifically reserve any and
11 all other defenses available to them including, but not limited to, any and all defenses related to
12 jurisdiction and venue.

13 3. Barclays’ and the Individual Traders’ deadline to move, answer, or otherwise
14 respond to the Petition will be extended until and including December 16, 2013.

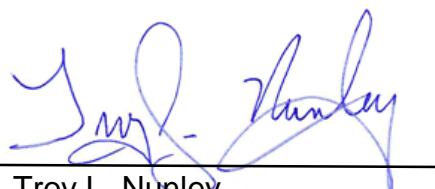
15 4. FERC will have sixty (60) days from the date the last filed response to the Petition
16 is served by Barclays or the Individual Traders to respond to or oppose any motion that is filed.

17 5. The deadline for any reply to a FERC response will be extended to thirty-five (35)
18 days from the date of service of such response.

19 6. Nothing in this Stipulation shall preclude Barclays and the Individual Traders from
20 raising any and all other defenses in answering, moving to dismiss, or otherwise responding to the
21 Petition.

22 **IT IS SO ORDERED.**

23
24 DATED: October 29, 2013

25
26 

27 Troy L. Nunley
28 United States District Judge