

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

I. SCHUMANN & COMPANY, LLC,)	
Complainant,)	
)	Case No. 17-473-EL-CSS
v.)	
)	
THE CLEVELAND ELECTRIC)	
ILLUMINATING COMPANY,)	
Respondent.)	

**I. SCHUMANN & COMPANY, LLC'S
INITIAL POST-HEARING BRIEF**

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I. INTRODUCTION

The Cleveland Electric Illuminating Company ("CEI") unreasonably and improperly rejected a service change request by I. Schumann & Company, LLC ("Schumann"), a long-time industrial customer of CEI. Schumann operates several electric and gas furnaces to manufacture bronze alloys. Schumann made multiple requests to CEI to connect to one of two 36 kV subtransmission circuits immediately adjacent to Schumann's manufacturing plant and take service under CEI's GSU Rate schedule. The new connection would allow Schumann to move away from a low voltage distribution circuit to a circuit that is much more reliable with less interruptions of electric service (a continuous issue for Schumann on the low voltage distribution system). The change in connection would also position Schumann to grow and expand its facility with the added benefit of realizing a significant reduction in its electric rates.

CEI, however, rejected Schumann's multiple requests for subtransmission service even though Schumann has valid reasons for connecting to the 36 kV system and qualifies under CEI's Tariff. CEI, realizing it would lose significant revenues if Schumann was served under the subtransmission schedule (Rate GSU), singled out Schumann's request, rejected the request before even discussing it with CEI's planning engineers, sought tariff "ammo" and other "reasons not to allow" Schumann's request, and wrote out policy guidelines that are inconsistently applied to other customers.

All of these actions were intended to mask CEI's true motive of preserving the revenue received from Schumann under the more expensive Rate GS. CEI's motive was apparent enough that a FirstEnergy rate analyst stated in a company email that "this could be a situation where the region is attempting to preserve revenue by restricting a customer from moving to

another rate." CEI's customer service representative also regularly reported to her supervisor the amount of revenue that CEI would lose if Schumann successfully changed rate schedules.

The fact that CEI considered its lost revenues in its decision process is alone sufficient for the Commission to take action. Even CEI's own witness, Dean Phillips, testified that it would be unreasonable for CEI to consider its lost revenue in the decision to deny or approve the service connection.¹ The Commission should also take action and order CEI to allow Schumann to take service under Rate GSU because: (1) Schumann qualifies for subtransmission service and Rate GSU under CEI's Tariff with any ambiguity in the tariff resolving in Schumann's favor; (2) CEI is not providing Schumann with adequate service given the outages that occur on the low distribution service and the disruption and cost to Schumann's melting operations that occur even if the outage is only a few seconds; and (3) CEI unduly and unreasonably discriminated against Schumann when denying Schumann's request for service.

Moreover, the Commission should reject any attempt by CEI to divert attention from its actions by claiming that Schumann never made a "formal" request by calling CEI's call center. CEI's own witness said the decision would have been the same regardless whether Schumann called the call center or submitted the request to CEI's customer service representative and eventually through CEI's own attorneys.

CEI cannot unilaterally review connection requests in a manner that is different than its tariff and cannot ignore the requirements and needs of an industrial customer that requires subtransmission service. The record in this proceeding supports Schumann's claims that it qualifies for Rate GSU and subtransmission service, that CEI is not providing Schumann with

¹ Tr. Vol. II 357:7- 358:13.

adequate and reliable service and that CEI has unduly discriminated against Schumann and subjected it to unreasonable prejudice and disadvantage. As explained by Mr. Kumar, an expert electrical engineer and utility system planner, "I see no reason why Schumann could not be added to a subtransmission circuit with available capacity adjacent to its plant."² CEI should be ordered to allow Schumann to connect to the subtransmission system and take service under schedule Rate GSU.

II. BACKGROUND

A. From its Ohio plant, Schumann processes, melts and supplies metal alloys in a worldwide market.

From its plant in Oakwood Village, Ohio, Schumann uses industrial scale gas-fired rotary furnaces and electric induction furnaces to melt and manufacture a wide range of brass and bronze alloys to make cast parts for a diverse range of industries, including agriculture, automotive/ truck, construction, electrical, mining, and defense.³

Schumann "purchases millions of pounds of copper and brass scrap annually; everything from" power cable lead-sheathing to valves and fixtures to automobile radiators.⁴ That scrap is processed, sorted and melted in gas-fired rotary and electric induction furnaces heated "to about 2,200°F to 2,300°F" to manufacture many different alloys.⁵ "In the process, certain waste materials are created that Schumann captures to recycle or resell to other industries[.]"⁶

As Schumann's Chief Operating Officer, Scott Schumann, testified, "Schumann is operating in a highly competitive and difficult market that has become global in nature during

² Schumann Ex. 4, Kumar Dir. Test. 7:16-8:2

³ Schumann Ex. 2, Schumann Dir. Test. 3:16-19, 4:2 -5:3 & 10:2-3.

⁴ Schumann Ex. 2, Schumann Dir. Test. 4:6-8.

⁵ Schumann Ex. 3, Grady Dir. Test.3:5-13; Schumann Ex. 2, Schumann Dir. Test. 10:2-3.

⁶ Schumann Ex. 3, Grady Dir. Test. 2:7-8; Schumann Ex. 2, Schumann Dir. Test. 4: 18-22.

the past ten to fifteen years."⁷ The market for Schumann's products is very specialized and has been challenging for the last several years with small margins, uncertain forecasts, and competitive imbalances.⁸ Still, due to its operational excellence and capabilities as an industry leader in its 100 year history, Schumann continues to support strong employment in Ohio and is positioned to take advantage of opportunities to grow the business and plant.⁹

Schumann's operations use heavy duty industrial equipment such as induction furnaces, presses for scrap processing, air compressors for plant equipment and four baghouses, each of which has "a large motor that powers a giant fan that pulls material out of the air through a duct system" to collection bags like "a house-sized industrial vacuum cleaner"¹⁰ as shown here:



The size and nature of Schumann's industrial equipment is important to Schumann's electric service. Plant wide, Schumann's electric demand is significant. In recent years,

⁷ Schumann Ex. 2, Schumann Dir. Test. 8:18-19.

⁸ Schumann Ex. 2, Schumann Dir. Test. 5:4-15

⁹ Schumann Ex. 2, Schumann Dir. Test. 4:6-5:7 and 5:16-20.

¹⁰ Schumann Ex. 3, Grady Dir. Test. 3:14-4:2 & Ex. A.

Schumann's load ranged from approximately [REDACTED] kW to [REDACTED] kW and, as the result of some measures to reduce its peak demand and combining two meters to one, Schumann's monthly demand has come down slightly to approximately [REDACTED] kW in 2017¹¹ The nature of the equipment and Schumann's operations makes reliable electric service important.¹²

When electric service to Schumann's plant is interrupted – regardless for how long -- "maintenance employees have to work through a complicated restart which can take up to an hour or more."¹³ The delays and losses add up to significant costs in lost product and employee time, increasing production cost per pound of alloy and even interfering with very short-notice and demanding delivery deadlines.¹⁴

B. Schumann currently receives Secondary Service under Rate GS from CEI's 13.2 kV circuit.

CEI currently provides Schumann with Secondary Service under Rate GS.¹⁵ That service is taken from CEI's "L-1-KK" 13.2 kV distribution circuit.¹⁶ Outages and momentary interruptions have been a problem with CEI's 13.2 kV service to Schumann in recent years.¹⁷ An outage is a loss of electric service for five minutes or more.¹⁸ A momentary interruption is a loss of electric service for less than five minutes.¹⁹ Both outages and momentary interruptions have been a problem. According to CEI's records, there were 12 outages and momentary interruptions on the 13.2 kV circuit serving Schumann from March 2015 to March 2017.²⁰ Those records may

¹¹ Schumann Ex. 2, Schumann Dir. Test. 7:10-15.

¹² Schumann Ex. 2, Schumann Dir. Test. 6:10.

¹³ Schumann Ex. 2, Schumann Dir. Test. 6:11-14.

¹⁴ Schumann Ex. 2, Schumann Dir. Test. 7:4-8. See also Schumann Ex. 2, Schumann Dir. Test. 6:15-7:3.

¹⁵ Schumann Ex. 2, Schumann Dir. Test. 3:14-16.

¹⁶ Schumann Ex. 1 at 1-INT-001(a).

¹⁷ Schumann Ex. 2, Schumann Dir. Test. 11:7. Schumann Ex. 3, Grady Dir. Test. 4:19.

¹⁸ Tr. Vol. II 313:3-5

¹⁹ Tr. Vol. II 313:3-5

²⁰ Schumann Ex. 1 at Schumann Set 1-INT-003 and Schumann Set 1-INT-003 (showing 13.2 kV outages)

not show every momentary interruption²¹ and Mr. Schumann testified that he is certain there were many more over the same time period that are not shown in CEI's records.²² For the period since March 2017, the period postdating CEI's records, there have been at least twelve electric service outages or momentary interruptions to Schumann, including one in March, nine in April, one in May and one in June – causing about nine hours of lost production time.²³

Under Rate GS, the cost of electric service is the [REDACTED] line item cost for Schumann.²⁴ On September 11, 2015, Schumann's Chief Operating Officer Scott Schumann, Chief Financial Officer Don Robertson, Plant Engineer Larry Grady and consultant met with Ms. Denise Bellas, Schumann's Customer Support Representative at CEI, to discuss CEI's bill calculations and whether Schumann could go on a rate other than Rate GS.²⁵ Subsequently, on September 23, 2015, Schumann's CFO Don Robertson, Plant Engineer Larry Grady and former consultant Mike Oberlin met with Ms. Bellas and CEI engineer Ken Stanoszek.²⁶ The meeting on September 23rd was "to talk about a change to [Schumann's] electrical service."²⁷

C. Rate GSU service is more reliable and more cost-effective than Rate GS service.

In the September 23, 2015 meeting, one option discussed "was a change to subtransmission service."²⁸ Subtransmission Service is electric service from CEI's 36 kV lines.²⁹ Subtransmission Service is provided under General Service – Subtransmission Rate (Rate

²¹ Tr. Vol. II 336:7-18.

²² Schumann Ex. 2, Schumann Dir. Test. 11:7-10.

²³ Schumann Ex. 2, Schumann Dir. Test. 11:15-16.

²⁴ Schumann Ex. 2, Schumann Dir. Test. 6:7-8; CONFIDENTIAL Tr. Vol. I 14:2-20.

²⁵ Company Ex. 25, Bellas Dir. Test. 3:20-4:1; Company Ex. 11C.

²⁶ Schumann Ex. 3, Grady Dir. Test. 5:16-19.

²⁷ Schumann Ex. 3, Grady Dir. Test. 5:16-19.

²⁸ Schumann Ex. 3, Grady Dir. Test. 5:19-21.

²⁹ CEI Tariff, Part IV(C), Original Sheet 4, page 4 of 21.

"GSU").³⁰ According to CEI's Tariff, Subtransmission Service delivery voltage should be specified based on availability of lines and commensurate with a customer's load.³¹

CEI does not dispute there are available 36 kV circuits – R-11-NF-G-X and R-24-NF-G-X – not just in the vicinity of Schumann's premises but immediately adjacent to its facility and that those lines have capacity to serve Schumann.³² As well, 36 kV Service is commensurate with the size of Schumann's load. Schumann's load has ranged in recent years from approximately [REDACTED] kW to [REDACTED] kW and, as the result of some measures to reduce its peak demand and combining two meters to one, Schumann's monthly demand has come down slightly to approximately [REDACTED] kW in 2017³³ By any measure, Schumann's demand is larger than loads of customers receiving Rate GSU service from R-11 and R-24 circuits³⁴ and significantly larger than the mean and median loads of all approximately 135 customers being served from the CEI's 36 kV circuits.³⁵

Connecting Schumann to the adjacent 36 kV lines would not be difficult. CEI expert witness Dean Phillips says it would be only "a short drop to the Schumann facility from the existing circuit" and does "not foresee any physical difficulty connecting Schumann to those lines."³⁶ Indeed, as shown the undisputed testimony of Schumann's Plant Engineer Larry Grady, "some engineering and infrastructure changes that would be required for [Schumann] to take

³⁰ Jt. Ex. 1 at Rate GSU Schedule, Sheet 22 page 1 of 3 (referred to as "CEI's Tariff").

³¹ CEI Tariff, Part IV(C), Original Sheet 4, page 4 of 21.

³² Schumann Ex. 1 at 1-INT-001; Tr. Vol. II 311:5-9.

³³ Schumann Ex. 2, Schumann Dir. Test. 7:10-15.

³⁴ Schumann Ex. 1 at 2-RFA-014 through 2-RFA-019 (admitting customers on R-11 and R-24 had lower monthly billing demands than Schumann).

³⁵ Schumann Ex. 1 at 2-INT-017(b) (median monthly billing demand of 0.45 MW) & (c)(average of 1.05 MW).

³⁶ Tr. Vol. I 323:15-18 & 330:13-24.

service under Rate GSU" were outlined in his September 23, 2015 meeting with CEI.³⁷ He thus had a "good understanding of the scope of work needed to change I. Schumann's service to Rate GSU" and started getting estimates on the cost of the required engineering work.³⁸ But Schumann never submitted engineering plans to CEI for new electric service because CEI said Schumann could not get Rate GSU service.³⁹

D. CEI repeatedly denied Schumann's multiple requests for Rate GSU service.

After the September 23, 2015 meeting, "Schumann thought CEI was receptive to changing [its] service from Rate GS to Rate GSU."⁴⁰ But in a meeting on January 15, 2016, and a number of times after that, Schumann made requests that CEI provide a connection to its 36 kV circuit – which Ms. Bellas refused even before contacting Planning, including as follows:

"based on current load of both meters, it DOES NOT warrant them going off the GSU rate. They can either go GS Rate (CEI owns equipment) or GP (customer owns equipment). Those are there [sic] options."⁴¹ Those refusals were highly unusual and made because, as one Rates Department employee suspected could be true and the evidence now shows, **"the region is attempting to preserve revenue by restricting a customer from moving to another rate..."**⁴²

The unusual nature of the refusals is reflected in the contradictory testimony given by CEI customer service representative Denise Bellas. In her direct testimony, Ms. Bellas described the process for responding to a customer request as a flow of information from the customer to Customer Support to Planning and Protection:

³⁷ Schumann Ex. 3, Grady Dir. Test. 6:1-10.

³⁸ Schumann Ex. 3, Grady Dir. Test. 5:11-17.

³⁹ Tr. Vol. I 123:8-19.

⁴⁰ Schumann Ex. 2, Schumann Dir. Test. 13:17-21.

⁴¹ Schumann Ex. 2, Schumann Dir. Test. 13:5-7; Schumann Ex. 1 at Schumann 0019.

⁴² Schumann Ex. 1 at Schumann 0029 & 0030 (emphasis added))

If a customer contacts its customer service representative, as Schumann did here, regarding initiating new service or changing its current service, the customer service representative forwards such request to CEI's Planning and Protection department to analyze.⁴³

Her direct testimony says that she did just that in response to Schumann's request.

Again, in her words from her direct testimony:

I discussed Schumann's inquiry with Jean Becks in CEI's Planning and Protection department and asked her to analyze whether Schumann qualified for subtransmission service.⁴⁴

But that is not what happened. Before she asked Ms. Becks in Planning to analyze Schumann's request, she had already communicated in writing to Schumann several times that it did not qualify for Rate GSU service⁴⁵ and twice communicated that Planning had already determined that Schumann did not qualify for Rate GSU service.⁴⁶ She also acknowledged on cross examination that she only talked with Ms. Becks because she was asked to do so by her boss, Michael Hrdy.⁴⁷

Mr. Hrdy is CEI's Customer Support Manager. Although Ms. Bellas testified that he does not normally get involved in customer requests to change service,⁴⁸ he did so after receiving an email from Mr. Weis in the Rates Department.⁴⁹ Mr. Weis' email showed that Schumann had hired an energy consultant (Jim Risk), wanted to take 36 kV Rate GSU service, and that Mr. Fanelli, Director of the Rates Department, "has some concerns over us denying this customers

⁴³ Company Ex. 25, Bellas Dir. Test. 4:14-17 (emphasis added).

⁴⁴ Company Ex. 25, Bellas Dir. Test. 4:8-11.

⁴⁵ Tr. Vol. I 182:10-18; Schumann Ex. 1, at Schumann 0019; Schumann Ex. 2, Schumann Dir. Test. 13:7-8.

⁴⁶ Schumann Ex. 1 at Schumann 0019 & Schumann 0039; Tr. Vol I 191:18-192:18

⁴⁷ Tr. Vol I 184:11-16

⁴⁸ Tr. Vol I 184:11-16 & Tr. Vol II 282:8-12.

⁴⁹ Schumann Ex. 1 at Schumann 0035.

request."⁵⁰ "My real fear," Mr. Hrdy wrote, "is that this being a consultant they are going to dig up more customers that would benefit from going on the GSU service."⁵¹

Mr. Hrdy then set to work trying to come up with reasons to justify denying Schumann's request. He went "looking for ammo" and for "some reasons not to allow" Schumann to take Rate GSU service.⁵² He asked Ms. Bellas to talk to Ms. Becks about Schumann's request for Rate GSU service⁵³ and he asked Ms. Becks to put in writing reasons Schumann did not qualify for 36 kV service, which she did.⁵⁴ As well, Mr. Hrdy received a calculation [REDACTED]⁵⁵ showing that Schumann would see a "big savings" on its monthly bill if it changed to Rate GSU service and shared that with CEI's President and Directors.⁵⁶ Several weeks later, Mr. Hrdy sent an email "thank[ing]" certain people for a "great team effort" in holding "our ground" against a consultant's demand that Schumann receive Rate GSU service.⁵⁷

The next day, Schumann's CFO wrote Ms. Bellas asking to discuss Schumann's request for Rate GSU service.⁵⁸ Her email reply said that Schumann did not warrant going on the GSU rate.⁵⁹

E. Having been singled out and denied Rate GSU service, Schumann filed this case.

On October 11, 2016, Schumann's counsel wrote CEI's counsel to make a formal request for 36 kV service under Rate GSU in order to obtain lower cost, more reliable electric service

⁵⁰ Schumann Ex. 1 at Schumann 0029-0031 & 0035.

⁵¹ Schumann Ex. 1 at Schumann 0035.

⁵² Schumann Ex. 1 at Schumann 0035 & Schumann 0082.

⁵³ Tr. Vol I 184:11-13.

⁵⁴ Tr. Vol II 282:4-285:21.

⁵⁵ CONFIDENTIAL Tr. Vol. I 259:10-261:22.

⁵⁶ Schumann Ex. 1 at Schumann 0111.

⁵⁷ Schumann Ex. 1 at Schumann 0122.

⁵⁸ Schumann Ex. 1 at Schumann 0200.

⁵⁹ Schumann Ex. 1 at Schumann 0200.

with greater capacity to accommodate potential business expansion.⁶⁰ In a November 1, 2016 response, CEI's counsel promised to investigate service quality issues but regardless, CEI again rejected Schumann's request: "Schumann should continue being served from the existing 13.2 kV circuit."⁶¹

Notably, he claimed that "CEI restricts connection to the 36-kV system to situations where there is not adequate capacity on the distribution system to serve new load or if the new load is too large to serve at distribution voltage" in order to "guard[] against degradation of the subtransmission system."⁶² CEI, however, admits it has no evidence that individual customer connections incrementally degrade the subtransmission system.⁶³ CEI leaves existing connections in place – even if they are no longer required by customers.⁶⁴ CEI has added ten new 36 kV connections since 2015⁶⁵ – including two in 2017. For the majority of those new connections – six out of ten – CEI has no evidence why the connection was required.⁶⁶

Being refused Rate GSU service unfairly, Schumann filed its Complaint in this case on February 16, 2017.

III. SUMMARY OF ARGUMENT

As noted in the Introduction above, CEI's consideration of the revenues it would lose when coming up with reasons to refuse Schumann's request for Rate GSU service was unreasonable and discriminatory. The record evidence supports that conclusion and CEI's own witness, Dean Phillips, testified that it would be unreasonable for CEI to consider its lost

⁶⁰ Schumann Ex. 2 at Ex. C (Oct. 11, 2016 Ltr. M. Settineri to R. Endris).

⁶¹ Schumann Ex. 2 at Ex. C (Nov. 1, 2016 Ltr. R. Endris to M. Settineri).

⁶² Schumann Ex. 2 at Ex. C (Nov. 1, 2016 Ltr. R. Endris to M. Settineri).

⁶³ Tr. Vol. II 292:9-22 & 319:5-8 & 321:22-24.

⁶⁴ Company Ex. 27, Becks Dir. Test. 4:7-16.

⁶⁵ Schumann Ex. 1 at 4-INT-002, 4-INT-004 & 4 INT 004 Attachment1; Schumann Ex. 5; Tr. Vol. I 222:18-228:18.

⁶⁶ Schumann Ex. 1 at 4-INT-002, 4-INT-004 & 4 INT 004 Attachment1; Schumann Ex. 5; Tr. Vol. I 222:18-228:18.

revenue in the decision to deny or approve the service connection.⁶⁷ For that reason alone, the Commission should order CEI to allow Schumann to connect to the subtransmission system and receive service under the GSU Rate schedule.

Three other arguments support such an order from the Commission. First, Schumann qualifies for Rate GSU service under CEI's Tariff with any ambiguity in the tariff resolving in Schumann's favor. Second, CEI is not providing Schumann with adequate service from the low voltage distribution system (Secondary Service) given the number of outages that occur on the low distribution service and the disruption and cost to Schumann's melting operations that occur even if the outage is only a few seconds. Third, CEI unduly discriminated against Schumann when denying Schumann's request for service.

Each of the three arguments provides an independent reason for an order from the Commission to allow Schumann to take service under the Rate GSU schedule. Lastly, and as a fourth argument, CEI's attempt to imply that Schumann never made a "formal" request is form over substance and simply further evidence of CEI's discriminatory treatment of Schumann.

IV. FIRST ARGUMENT: Schumann qualifies for Rate GSU under CEI's Tariff.

Schumann qualifies for Rate GSU under a proper interpretation of two tariff provisions. First, because there are two 36 kV subtransmission circuits immediately next to Schumann's premises and commensurate with Schumann's current and potential load, Schumann qualifies for Subtransmission Service under Part IV(C) of CEI's Electric Service Regulations.⁶⁸ Second, CEI qualifies for Rate GSU because Schumann requires Subtransmission Service which is a condition

⁶⁷ Tr. Vol. II 357:7- 358:13.

⁶⁸ CEI Tariff, Original Sheet 4, page 4 of 21.

under the Rate GSU schedule in CEI's Tariff.⁶⁹ Schumann's interpretation of CEI's Tariff is supported by CEI's own rate analysts who made statements that Schumann should be able to receive Subtransmission Service.⁷⁰

A. Schumann qualifies for Subtransmission Service.

Schumann is eligible for and qualifies for a delivery voltage under the subtransmission service class stated in Electric Service Regulations of CEI's Tariff. Those regulations state as follows:

ELECTRIC SERVICE REGULATIONS

C. **Delivery Voltage:** Subject to the provisions of paragraph IV.B above, and after the Company determines that facilities of adequate capacity are available and adjacent to the premises to be served, the types of service available with the nominal voltages are:

1. **Secondary Service** - Less than or equal to 600 volts
2. **Subtransmission Service** - 11,000 volts three wire and 36,000 volts three wire
3. **Transmission Service** - Greater than or equal to 69,000 volts
4. **Primary Service** - All other available voltages

Delivery voltage will be specified by the Company and will be based upon the availability of lines in the vicinity of the customer's premises and commensurate with the size of the customer's load. Customers with demands in excess of twenty-five hundred (2,500) kW will generally be served at Transmission Service

To qualify for Subtransmission Service and as the first paragraph of the above tariff language indicates, CEI must first determine that facilities of adequate capacity are available and adjacent to the premises to be served.⁷¹ In Schumann's case, there is no dispute that the two 36 kV circuits have adequate capacity and are immediately adjacent to Schumann's premises. CEI's witness Dean Phillips admitted this in responses to written interrogatories,

⁶⁹ CEI Tariff, General Service – Subtransmission (Rate “GSU”), Original Sheet 22, page 1 of 3.

⁷⁰ Schumann Ex. 1 at Schumann 0029.

⁷¹ CEI Tariff, Part IV(C), Original Sheet 4, page 4 of 21.

stating "[t]here are two 36kV circuits adjacent to the property[,] R-11-NF-G-X and R-24-NF-G-X, both of which would have capacity to serve this customer."⁷²

Although Schumann does qualify for Subtransmission Service (lines having adequate capacity and immediately adjacent), the tariff does provide that CEI will specify delivery voltage.⁷³ That right of specification, however, is expressly constrained and limited in CEI's Tariff to two considerations, the availability of the lines and ensuring the delivery voltage is commensurate with the size of the customer's load. No other factors are to be considered, and the record supports the conclusion of a 36 kV delivery voltage.

CEI's Tariff on this point is express. The Electric Service Regulations from the tariff state:⁷⁴

Delivery voltage will be specified by the Company and will be based upon the availability of lines in the vicinity of the customer's premises and commensurate with the size of the customer's load. Customers with demands in excess of twenty-five hundred (2,500) kW will generally be served at Transmission Service

As noted above, CEI does not dispute that there are available 36 kV lines not just in the vicinity of Schumann's premises but immediately adjacent to its facility and that those lines have capacity to serve Schumann.⁷⁵ As well, 36 kV service is commensurate with the size of Schumann's load. That conclusion is supported by the record evidence.

In recent years, Schumann's load ranged from approximately [REDACTED] kW to [REDACTED] kW and, as the result of some measures to reduce its peak demand and combining two meters to one, Schumann's monthly demand has come down slightly to approximately [REDACTED] kW in

⁷² Schumann Ex. 1 at 1-INT-001. See also Tr. Vol. I 311:5-9.

⁷³ Tariff, Elec. Svc. Reg. § IV.C & Rate GSU Schedule page 1 of 3.

⁷⁴ Tariff, ESR § IV.C.

⁷⁵ Schumann Ex. 1 at 1-INT-001. See also Tr. Vol. I 311:5-9.

2017⁷⁶ According to CEI's internal communications in May 2016, however, it treated Schumann's load as approximately [REDACTED] kW.⁷⁷ As well, expansion by Schumann could lead to additional load increases.⁷⁸ Regardless whether measured as of 2016 or today, Schumann's demand is larger than loads of customers receiving Rate GSU service from R-11 and R-24 circuits⁷⁹ and significantly larger than the mean and median loads of all approximately 135 customers being served from the CEI's 36 kV circuits.⁸⁰

CEI's Tariff also supports the conclusion that Subtransmission Service at 36 kV is commensurate with Schumann's load. CEI's Tariff states that, "[c]ustomers with demands in excess of twenty-five hundred (2,500) kW will generally be served at Transmission Service."⁸¹ Transmission Service has a delivery voltage of greater than or equal to 69,000 volts. If a load of 2,500 kW is commensurate with a delivery voltage of at least 69,000 volts, than certainly a load of [REDACTED] kW would be commensurate with a delivery voltage of 36,000 volts. Mr. Weis cited same tariff provision when he suggested that Schumann "may have a right to be served by the higher voltage, if requested."⁸² Schumann qualifies for and CEI should specify a delivery voltage of 36,000 volts under Subtransmission Service for Schumann's facility.

⁷⁶ Schumann Ex. 2, Schumann Dir. Test. 7:10-15.

⁷⁷ Schumann Ex. 1C at Schumann 0082. See also id. at Schumann 0110 (stating "[REDACTED] kWD").

⁷⁸ Schuman Ex. 2, Schumann Dir. Test. 7:15-18; Schumann Ex. 3, Grady Dir. Test. 2:20-22. Schumann Ex. 3C, CONFIDENTIAL Grady Dir. Test. 4:13-13.

⁷⁹ Schumann Ex. 1 at 2-RFA-014 through 2-RFA-019 (admitting customers on R-11 and R-24 had lower monthly billing demands than Schumann).

⁸⁰ Schumann Ex. 1 at 2-INT-017(b) (median monthly billing demand of 0.45 MW) & (c)(average of 1.05 MW).

⁸¹ CEI Tariff, Part IV(C), Original Sheet 4, page 4 of 21.

⁸² Schumann Ex. 1 at Schumann 0029. Mr. Weis also indicated Section V.B of CEI's Electric Service Regulations as supporting the switch in service. Id.

B. Schumann qualifies for Rate GSU because Schumann requires that rate schedule.

Having qualified for Subtransmission Service at a 36 kV delivery voltage, the only remaining tariff question is whether Rate GSU is available to Schumann. The answer is yes.

The Rate GSU schedule states as follows:⁸³

GENERAL SERVICE - SUBTRANSMISSION (RATE "GSU")

AVAILABILITY:

Available to general service installations requiring Subtransmission Service. Subtransmission Service is defined in the Company's Electric Service Regulations. Choice of voltage shall be at the option of the Company.

As the record evidence shows, Schumann requires Subtransmission Service. First, service from the 36 kV circuits will be more reliable than service from CEI's 13.2 kV circuit and the subtransmission system experiences fewer outages and momentary interruptions that are so costly and disruptive to Schumann's industrial melting operations. Second, Subtransmission Service provides opportunities for important capital investment and potential expansion of Schumann's business or plant.

1. Schumann requires subtransmission service because it is more reliable and will have fewer costly and problematic electric service outages and interruptions than CEI's 13.2 kV distribution circuit.

Schumann requires 36 kV service because the current service from CEI's low voltage distribution circuit is inadequate given the increasing number of outages and interruptions to service at Schumann's premises and the nature of Schumann's operations. "Schumann's

⁸³ Jt. Ex. 1 at Rate GSU Schedule, Sheet 22 page 1 of 3.

manufacturing process ... requires a reliable supply of electricity."⁸⁴ Schumann's core business involves heating electric induction furnaces "to about 2,200°F to 2,300°F so we can melt, pour and make or test our alloys for customers."⁸⁵ Schumann's plant also requires operation of presses for scrap processing, air compressors for plant air, and four baghouses, each of which "is like a house-sized industrial vacuum cleaner – each has a large motor that powers a giant fan that pulls material out of the air through a duct system, where it is collected in bags."⁸⁶

Given the nature of that equipment and the size of Schumann's plant, electric service outages have a big impact.⁸⁷ After an electric service outage or interruption, Schumann's "maintenance employees have to work through a complicated restart. For example:

they need to restart the baghouses before they can restart the furnaces, which means manually opening massive dampers, then adjusting amperage until the settings are right and the baghouses are running. Then, air compressors need to be restarted so that we can purge the system and prepare other equipment for operation. Our rotary furnaces are gas-fired but they also need to be restarted, not with the flip of a switch but manually by employees with torches. And, any alloy that was being melted or heated in the furnaces has to be removed and set aside for reprocessing later."⁸⁸

That restart process can take up to an hour or more, even if electric service was interrupted for just a few seconds, making each outage and restart very costly.⁸⁹

The delays and losses caused by these electrical outages add up to significant costs in lost product and employee time, increasing production cost per pound of alloy and even interfering with very short-notice and demanding delivery deadlines. For every hour of production time we lose because of a power outage, we lose approximately \$[REDACTED] in time, wages and waste."⁹⁰

⁸⁴ Schumann Ex. 2, Schumann Dir. Test. 6:10.

⁸⁵ Schumann Ex. 3, Grady Dir. Test. 3:9-10.

⁸⁶ Schumann Ex. 3, Grady Dir. Test. 3:14-4:2.

⁸⁷ Schumann Ex. 3, Grady Dir. Test. 2:22-3:3.

⁸⁸ Schumann Ex. 3, Grady Dir. Test. 4:20-5:6.

⁸⁹ Schumann Ex. 2, Schumann Dir. Test. 6:11-14.

⁹⁰ Schumann Ex. 2C, CONFIDENTIAL Schumann Dir. Test. 7:4-8. Schumann Ex. 2, Schumann Dir. Test. 6:15-7:3.

Outages have been a problem with CEI's 13.2 kV service to Schumann, which has "had a lot" in recent years.⁹¹ CEI's own records corroborate this. CEI's figures show that 12 outages of over five minutes occurred on the 13.2 kV circuit serving Schumann from March 2015 to March 2017.⁹² CEI's witness admitted, too, that those figures may not even show every momentary interruption (outages of less than five minutes)⁹³ of which there were many more over the same time period that are not shown in CEI's records.⁹⁴ And the situation is not improving. Since March 2017, the period postdating CEI's records, there have been at least twelve electric service outages or momentary interruptions to Schumann, including one in March, nine in April, one in May and one in June.⁹⁵

36 kV Service will provide Schumann with more reliable service and reduce the instance of electric service outages and momentary interruptions.⁹⁶ CEI witnesses admitted that the 36 kV circuits adjacent to Schumann's premises "have less outages – both momentary interruptions as well as sustained outages – than the 13.2 kV system that Schumann is currently on."⁹⁷ Tellingly, for the period March 2015 through March 2017, CEI's records show only one outage on each of the 36 kV circuits adjacent to Schumann's premises compared to 12 outages on the 13.2 kV circuit serving Schumann.⁹⁸ And those figures may not even show every

⁹¹ Schumann Ex. 2, Schumann Dir. Test. 11:7. Schumann Ex. 3, Grady Dir. Test. 4:19.

⁹² Schumann Ex. 1 at Schumann Set 1-INT-003 and Schumann Set 1-INT-003 (showing 13.2 kV outages)

⁹³ Tr. Vol. II 336:7-18.

⁹⁴ Schumann Ex. 2, Schumann Dir. Test. 11:7-10.

⁹⁵ Schumann Ex. 2, Schumann Dir. Test. 11:15-16.

⁹⁶ Schumann Ex. 2, Schumann Dir. Test. 6:10, 8:7-9, 10:12-14,

⁹⁷ Tr. Vol. II 343:21 – 344:11.

⁹⁸ See Schumann Ex. 1 at Schumann Set 1-INT-003 and Schumann Set 1-INT-003 (showing 13.2 kV outages) & Attachment 1 with Schumann Set 1-INT-004 and Schumann Set 1-INT-004 Attachment 1 (showing 36 kV outages).

momentary interruption, which are typically more common on the 13.2 kV circuit than the 36 kV circuit.⁹⁹

CEI does not deny that Schumann has been experiencing outages and momentary interruptions, or that those are problem for Schumann's industrial operations,¹⁰⁰ and admits that its available 36 kV circuits experience fewer outages and momentary interruptions than its 13.2 kV circuit.¹⁰¹ Thus, to obtain more reliable service for its industrial operations, Schumann requires 36 kV service.

2. 36 kV Subtransmission Service will position Schumann for expansion of its business and plant.

Schumann is always trying to prepare for opportunities to expand its operations or plant.¹⁰² As Schumann's Chief Operating Officer testified, "Schumann is operating in a highly competitive and difficult market that has become global in nature during the past ten to fifteen years."¹⁰³ As the market changes, like so many other things in the world today, "opportunities can come up quickly."¹⁰⁴ [REDACTED]

[REDACTED].¹⁰⁵

Of course, Schumann cannot predict future market opportunities with certainty. If Schumann continues to be served from the 13.2 kV circuit, however, it could face capacity constraints, will continue paying higher electric service costs, and will still have numerous

⁹⁹ Tr. Vol. II 336:7-18 & 289:3-7.

¹⁰⁰ Tr. Vol. I 213:11-215:22, 217:21-218:7; Tr. Vol. II 338:8-339:5.

¹⁰¹ Tr. Vol. I 343:21 – 344:11.

¹⁰² Schumann Ex. 2, Schumann Dir. Test. 9:4-9.

¹⁰³ Schumann Ex. 2, Schumann Dir. Test. 8:18-19.

¹⁰⁴ Schumann Ex. 2, Schumann Dir. Test. 9:12.

¹⁰⁵ Schumann Ex. 2C, Schumann Dir. Test. 8:18-9:9 & 10:3-9.

outages and the resulting operational inefficiencies.¹⁰⁶ It could also face timing constraints, as Ms. Becks testified that the lead time for a transformer could be up to a year.¹⁰⁷

In contrast switching service to 36 kV under Rate GSU would provide I. Schumann with more cost-effective, more reliable service and would create opportunities for economic growth, capital investment, and possible additions to employment.¹⁰⁸ 36 kV Subtransmission Service will also position Schumann for expansion of its business and plant. For that reason and because Schumann will have more reliable service and recognize material savings, Schumann requires Subtransmission Service and qualifies for Rate GSU.

C. The statements by Rates Department personnel support Schumann's interpretation of CEI's Tariff.

Not only does the record support Schumann's claim that it requires Subtransmission Service, the record contains statements by Rates Department personnel that support Schumann's interpretation of the CEI Tariff. Specifically, personnel in the Rates Department saw nothing in the CEI Tariff preventing Schumann from receiving 36 kV service under Rate GSU. Even those that did find a basis in CEI's discretion or option to choose voltage admitted that there is room under the CEI Tariff for Schumann's argument to take 36 kV service under Rate GSU. Whether by admission or ambiguity, Schumann has a right to 36 kV service under Rate GSU.

Employees in CEI's Rates Department are knowledgeable about CEI's Tariff.¹⁰⁹ Indeed, the Rates Department is "familiar with CEI's tariff and everything that went into it" and, as CEI witness, Dean Phillips admitted, Rates Department personnel are more familiar with the CEI

¹⁰⁶ Schumann Ex. 2, Schumann Dir. Test. 9:17-20.

¹⁰⁷ Tr. Vol. II 305:2-7.

¹⁰⁸ Schumann Ex. 2, Schumann Dir. Test. 8:14-16.

¹⁰⁹ Tr. Vol. I 194:11-20.

Tariff than CEI's witnesses.¹¹⁰ In May 2016, Rates Department personnel reviewed Schumann's request for 36 kV service under Rate GSU and found no basis in the CEI Tariff to deny Schumann's request for 36 kV service. Santino Fanelli, the Director of CEI's Rates Department, was not sure what tariff support CEI would have to deny the Schumann's request.¹¹¹ And Richard Weis, also in CEI's Rates Department, wrote that if "the 33kV line is available adjacent to the customer's facilities," which it is, **"the customer may have a right to be served by the higher voltage, if requested."**¹¹²

At a minimum, CEI's internal emails show plainly that CEI's tariff interpretation is neither settled nor unambiguous. The Director of the Rates Department was not sure what support CEI would have to deny Schumann's request.¹¹³ Another Rates Department employee stated that **"the customer may have a right to be served by the higher voltage, if requested."**¹¹⁴ And the Manager of Distribution Standards thought that "...[CEI will] have to do what the customer wants...."¹¹⁵ If their statements don't outright show Schumann's right under the CEI Tariff to Rate GSU service, they show at least that the CEI Tariff is ambiguous and that Schumann's interpretation is reasonable.

Importantly, even the two employees who either denied or sought reasons to deny Schumann's request admit that there is room under the CEI Tariff for Schumann's interpretation that it should receive Rate GSU service. Although she several times rejected

¹¹⁰ Tr. Vol. I 194:11-20 & 316:23-317:1.

¹¹¹ Schumann Ex. 1 at Schumann 0029.

¹¹² Schuman Ex. 1 at Schumann 0029 & 0030 (emphasis added)

¹¹³ Schumann Ex. 1 at Schumann 0029.

¹¹⁴ Schuman Ex. 1 at Schumann 0029 & 0030 (emphasis added).

¹¹⁵ Schumann Ex. 1 at Schumann 0082. He indicated Mr. Coleman wanted to "do some more checking," but there is no further evidence of Mr. Coleman's involvement. When Mr. Hrdy thanked certain people for a "great team effort" in holding "our ground" against Schumann's request, he did not include Mr. Weis or Mr. Coleman.

requests from Schumann, Customer Support Representative Denise Bellas admitted at hearing that while CEI has its "position," she "can see both arguments; [she] can see Schumann trying to go off the subtransmission rate...."¹¹⁶ And Customer Support Manager Michael Hrdy, who sought "reasons not to allow" Schumann to take 36 kV service, nevertheless admitted that CEI's "tariff language, however, leaves some wiggle room for both arguments" of CEI and Schumann.¹¹⁷

Even if the statements of the Rates Department personnel are ignored (which they should not be), CEI's testimony that its tariff on this point is ambiguous means that the Commission must construe that ambiguity against CEI and in favor of Schumann. See *Consumer's Counsel v. Ohio Pub. Util. Comm.*, 61 Ohio St.3d 396, 407 (1991). Thus, regardless whether CEI attempts to present a different interpretation of its tariff language, the Commission should find that Schumann qualifies for Subtransmission Service at a delivery voltage of 36 kV and under the Rate GSU schedule. The record, the tariff language, and the statements by the Rates Department personnel and CEI's employees support that conclusion.

V. SECOND ARGUMENT: Schumann is not receiving adequate service under Secondary Service.

In addition to showing that Schumann requires Subtransmission Service, the record supports and requires a finding that Schumann is not receiving adequate service under the low voltage distribution system (Secondary Service). As required by R.C. 4905.22, "[e]very public utility shall furnish necessary and adequate service and facilities and every public utility shall furnish and provide with respect to its business such instrumentalities and facilities as are

¹¹⁶ Tr. Vol. I 202:25-203:5.

¹¹⁷ See Schumann Ex. 1 at Schumann 0110.

adequate and in all respects just and reasonable.” CEI’s mandate that Schumann remain at Secondary Service (less than or equal to 600 volts) which has adversely impacted Schumann’s operations is unreasonable and does not constitute adequate service.

As discussed above, Schumann's manufacturing process involves heating electric induction furnaces "to about 2,200°F to 2,300°F so we can melt, pour and make or test our alloys for customers."¹¹⁸ Schumann also uses gas furnaces that require electricity to operate.¹¹⁹ These furnaces operate around the clock during the production week. As Schumann’s Chief Operating Officer and long-time employee Scott Schumann testified:¹²⁰

The way the production schedule at the facility works is that some time either on Sunday morning or Sunday afternoon, production starts for the week and furnaces are heated up and charged with raw materials and pour out alloys, and because we are **a continuous batch processor**, when the furnaces are poured empty they are promptly refilled with another charge for a different heat or production unit. **The furnaces will then run continuously on 24-hour cycles** until the end of the week, which may be sometime on Friday or sometime on Sunday or even sometimes going into Sunday.

Like any other alloy manufacturer or steel manufacturer, a loss of electricity from CEI’s distribution system, even just for a few seconds, has a significant and disruptive effect on Schumann’s melting operations. As Schumann’s engineering manager testified (Larry Grady), after an electric service outage or interruption, Schumann's "maintenance employees have to work through a complicated restart which can take up to an hour or more. This restart can take up to an hour or more, even if electric service was interrupted for just a few seconds, making each outage and restart very costly."¹²¹ Schumann’s Chief Financial Officer calculated that for

¹¹⁸ Schumann Ex. 3, Grady Dir. Test. 3:9-10.

¹¹⁹ Tr. Vol. I Vol 1 at 74.

¹²⁰ Tr. Vol. I Vol 1 at 74 (emphasis added) (first "Sunday" corrected to "Saturday").

¹²¹ Schumann Ex. 2, Schumann Dir. Test. 6:11-14.

every hour of production time lost by a power outage, Schumann lost \$[REDACTED] in time, wages and product waste.¹²²

The outages, which shutdown both Schumann's electric and gas furnaces,¹²³ continue to be a problem with CEI's 13.2 kV service to Schumann, which has "had a lot" in recent years.¹²⁴

As already explained, CEI's own records corroborate this, showing 12 outages of over five minutes occurred on the 13.2 kV circuit serving Schumann from March 2015 to March 2017.¹²⁵

CEI's witness admitted, too, that those figures may not even show every momentary interruption (outages of less than five minutes)¹²⁶ of which there were many more over the same time period that are not shown in CEI's records.¹²⁷ And since March 2017, the period postdating CEI's records, there have been at least twelve additional electric service outages or momentary interruptions to Schumann, including one in March, nine in April, one in May and one in June.¹²⁸

CEI's refusal to allow a manufacturer that melts and casts metal on a continuous basis in multiple electric and gas furnaces to move away from low level distribution service makes no sense (other than to preserve CEI's revenue). There is no dispute that 36 kV service will provide Schumann with more reliable service and reduce the instance of electric service outages and momentary interruptions.¹²⁹ CEI's witnesses admitted that the 36 kV circuits adjacent to Schumann's premises "have less outages – both momentary interruptions as well as sustained

¹²² Schumann Ex. 2, Schumann Dir. Test. 7:4-8. See also Schumann Ex. 2, Schumann Dir. Test. 6:15-7:3.

¹²³ Tr. Vol. I at 73.

¹²⁴ Schumann Ex. 2, Schumann Dir. Test. 11:7. Schumann Ex. 3, Grady Dir. Test. 4:19.

¹²⁵ Schumann Ex. 1 at Schumann Set 1-INT-003 and Schumann Set 1-INT-003 (showing 13.2 kV outages)

¹²⁶ Tr. Vol. I 336:7-18.

¹²⁷ Schumann Ex. 2, Schumann Dir. Test. 11:7-10.

¹²⁸ Schuman Test. 11:15-16.

¹²⁹ Schumann Ex. 2, Schumann Dir. Test. 6:10, 8:7-9, 10:12-14,

outages – than the 13.2 kV system that Schumann is currently on."¹³⁰ For example, for the period March 2015 through March 2017, CEI's records show only one outage on each of the 36 kV circuits adjacent to Schumann's premises compared to 12 outages on the 13.2 kV circuit serving Schumann.¹³¹ And those figures may not even show every momentary interruption, which are typically more common on the 13.2 kV circuit than the 36 kV circuit.¹³²

CEI also cannot claim that Schumann will present additional risk to the system. First, CEI has not done any risk analysis,¹³³ nor is there a need to because CEI's engineering witness Dean Phillips testified that he was not aware of any issues that Schumann's operations have created on the low voltage distribution service.¹³⁴ This should alleviate any concern that CEI may have about whether Schumann's operations would disrupt the 36 kV subtransmission system. Mr. Phillips also testified that there are steps Schumann can take in the design on its side of the connection to help minimize any risk to the 36 kV system, and that CEI would install a reclosure device (which Schumann would pay for) that absent a failure of the device, would protect CEI's system.¹³⁵

CEI also cannot point to its willingness to allow Schumann to go to the Rate GP schedule as a solution for the inadequate service Schumann is receiving. Even if Schumann was allowed to switch to Rate GP, it would still be taking service under Secondary Service and from the same low voltage distribution circuit. That is inadequate service for a sophisticated and energy

¹³⁰ Tr. Vol. I 343:21 – 344:11.

¹³¹ See Schumann Ex. 1 at Schumann Set 1-INT-003 and Schumann Set 1-INT-003 (showing 13.2 kV outages) & Attachment 1 with Schumann Set 1-INT-004 and Schumann Set 1-INT-004 Attachment 1 (showing 36 kV outages).

¹³² Tr. Vol. I 336:7-18 & 289:3-7.

¹³³ Tr. Vol. I 327.

¹³⁴ Tr. Vol. I 319.

¹³⁵ Tr. Vol. II 322.

intensive bronze alloy manufacturer using electric and gas furnaces operating at least 6 days a week, 24-hours a day.

CEI may argue that Schumann has been on the low voltage distribution system for years, but CEI cannot deny that Schumann has been experiencing outages and momentary interruptions,¹³⁶ cannot deny that those are problem for Schumann's industrial operations,¹³⁷ and admits that its available 36 kV circuits experience fewer outages and momentary interruptions than its 13.2 kV circuit.¹³⁸ Schumann not only requires Subtransmission Service, it will reduce Schumann's exposure to the outages and momentary interruptions that are frequently occurring on the low-voltage level distribution system and to ensure Schumann has adequate electrical service to support its manufacturing operations.

VI. THIRD ARGUMENT: CEI's decision to deny Schumann's request for Rate GSU service is unduly discriminatory.

CEI may not "subject any person, firm, corporation, or locality to any undue or unreasonable prejudice or disadvantage." R.C. 4905.35(A). R.C. 4905.35 prohibits discrimination that lacks a reasonable basis. *See Allnet Communications Serv., Inc. v. Pub. Util. Comm.*, 70 Ohio St. 3d 202, 207 (1994). Here, CEI has unreasonably prejudiced and disadvantaged Schumann by restricting access to Rate GSU service to preserve CEI's own monthly revenue. CEI's own witness, Dean Phillips, testified that it would be unreasonable for CEI to consider its lost revenue in the decision to deny or approve the service connection.¹³⁹ As suspected by Mr. Weis in CEI's Rates Department, CEI's decision to deny Schumann's request for Rate GSU Service looked like **"a situation where the region is attempting to preserve**

¹³⁶ Tr. Vol. I 213:11-215:22, 217:21-218:7; Tr. Vol. II 338:8-339:5.

¹³⁷ Tr. Vol. I 213:11-215:22, 217:21-218:7; Tr. Vol. II 338:8-339:5. .

¹³⁸ Tr. Vol. I 343:21 – 344:11.

¹³⁹ Tr. Vol. I 357:7- 358:13.

revenue by restricting a customer from moving to another rate...¹⁴⁰ To preserve that revenue, CEI unreasonably disadvantaged and discriminated against Schumann in three separate ways.

First, although CEI's policy is that customer requests to change service should be forwarded to Planning for analysis, CEI's Customer Support Representative repeatedly denied Schumann's request for Rate GSU service before discussing it with Planning. Twice, before contacting Ms. Becks in Planning, Ms. Bellas indicated anyway that Planning had denied Schumann's request. Second, Mr. Hrdy took abnormal and unusual steps to find "ammo" and other "reasons not to allow" Schumann's request. And, third, CEI has unfairly refused Schumann's request due to alleged and manufactured lack of need for 36 kV service while at the same time providing new 36 kV service to ten other premises despite having no evidence of any need for the majority of those new connections – including two in 2017.

A. CEI's Customer Support Representative denied Schumann's request without following the procedure to have the request analyzed by Planning.

In her direct prefiled testimony, CEI's Customer Support Representative, Denise Bellas, testified that for inquiries such as Schumann's, she forwards the inquiries to CEI's Planning and Protection Department. Referring to her recall of inquiries at a September 2015 meeting, her direct testimony states, in relevant part, as follows:

Q. When did Schumann first contact CEI to explore upgrades to its electric service?

A. September 2015.

Q. What do you recall about that conversation?

¹⁴⁰ Schumann Ex. 1 at Schumann 0029 & 0030 (emphasis added))

- A. ... They also inquired about CEI's rate structure and if there was another rate that Schumann could go on.

Q. What did you do in response to Schumann's inquiries?

- A. I discussed Schumann's inquiry with Jean Becks in CEI's Planning and Protection department and asked her to analyze whether Schumann qualified for subtransmission service.

Q. Is this what is typically done when a CEI representative receives an inquiry such as Schumann's inquiry here?

- A. Yes. If a customer contacts its customer service representative, as Schumann did here, regarding initiating new service or changing its current service, the customer service representative forwards such request to CEI's Planning and Protection department to analyze.¹⁴¹

On cross examination, though, she conceded that she did not handle Schumann's request as she claimed she did in her direct testimony. Although her direct testimony was that she responded to Schumann's inquiry by forwarding it to Ms. Becks in Planning and Protection to analyze, she admits she did not do that until mid to late May 2016, about eight months later:

Q. ...you discussed Schumann's inquiry with Jean Becks in mid to late May 2016; is that right?

- A. That is correct.

Q. Prior to that time in mid to late May 2016, you had no discussions with Ms. Becks about Schumann's inquiries; is that right?

- A. That is correct.¹⁴²

Not only did Ms. Bellas delay her discussion with Planning in response to Schumann's request, during that delay she denied several requests from Schumann's employees and representatives for Rate GSU service. In a January 15, 2016 meeting, Schumann "asked to

¹⁴¹ Company Ex. 25, Bellas Dir. Test. 3:16-4:17.

¹⁴² Tr. Vol. I 180:21-181:2.

switch to Rate GSU" but Ms. Bellas surprisingly "said no."¹⁴³ As well, she wrote an email to Schumann's consultant before May 2016 "indicating that I. Schumann was not eligible for subtransmission service."¹⁴⁴ On March 30, 2016, she responded to an email from Consultant Risk as illustrated here:¹⁴⁵

From: Jim Risk [<mailto:jim@clarityenergyconsulting.com>]
Sent: Wednesday, March 30, 2016 10:38 AM
To: Bellas, Denise P <bellasdp@firstenergycorp.com>
Subject: I Schumann

Hi Denise. I hope you are well. I think Wendy Zele mentioned my name to you. Can we catch up on I Schumann sometime over the next week? They would like to get on the GSU rate by combining their two services. I would like to chat with you about it and what if anything can be done to make it happen? It is probably best if we get on the phone to discuss it. Please see attached authorization letter.

How does your schedule look over the next week?

On Mar 30, 2016, at 10:44 AM, Bellas, Denise P <bellasdp@firstenergycorp.com> wrote:

I have met with the customer on numerous occasions and they have been informed that based on current load of both meters, it DOES NOT warrant them going off the GSU rate. They can either go GS Rate (CEI owns equipment) or GP (customer owns equipment). Those are their options.

Denise Bellas
The Illuminating Co
Account Manager
440-546-8812 Office
440-228-6342 Cell
440-717-5474 Fax

Ms. Bellas not only delayed presenting Schumann's request for Rate GSU service to Planning according to what she claims is the procedure customer support representatives "typically" use to respond when "a customer contacts its customer service representative, as Schumann did here, regarding initiating new service or changing its current service," she expressly communicated CEI's rejection of Schumann's request several times. And before she discussed Schumann's request with Ms. Becks in mid to late May, she stated that Planning had

¹⁴³ Schumann Ex. 2, Schumann Dir. Test. 13:1-2.

¹⁴⁴ Tr. Vol. I 182:10-18.

¹⁴⁵ Schumann Ex. 1 at Schumann 0019.

determined Schumann did not qualify for Rate GSU. On March 31, 2016, in response to an email from Mr. Risk asking why Schumann was "being denied service at the 33kV level," she wrote back that "planning and protection .. has ... determined ... they do not warrant going off the subtransmission service" as shown here:¹⁴⁶

From: Jim Risk [mailto:jim@clarityenergyconsulting.com]
Sent: Wednesday, March 30, 2016 8:43 PM
To: Bellas, Denise P <bellasd@firstenergycorp.com>
Subject: Re: I Schumann

Denise. Can you please explain why the GSU sub transmission service request is being denied? My team has looked at the GSU service tariff filed by first energy and there is no minimum service threshold. Please advise reason why they are being denied service at the 33kV level. Thank you. Jim

From: Bellas, Denise P
Sent time: Thursday, March 31, 2016 2:24:31 PM
To: Jim Risk
Subject: RE: I Schumann

v:.* {behaviorurl(#default#VML);} o:.* {behaviorurl(#default#VML);} w:.* {behaviorurl(#default#VML);} .shape {behaviorurl(#default#VML);} <![endif]-->
Jim

As a company our planning and protection department determines what voltage a customer will be feed off of. It has been determined by them that based on customer's current loads they do not warrant going off the sub transmission service.

Denise Bellas
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Account Manager
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Mr. Risk then emailed the Rates Department on May 4, 2016 asking "what if anything can be done to grant this GSU request?"¹⁴⁷ His email as forwarded to Mr. Weis, who then talked to Ms. Bellas.¹⁴⁸ Although she had not yet contacted Ms. Becks in Planning about Schumann's request, Ms. Bellas told Mr. Weis that "Planning & Protection stated 'that the

¹⁴⁶ Schumann Ex. 1 at Schumann 0019.

¹⁴⁷ Schumann Ex. 1 at Schumann 0029-0030 & Tr. Vol. I 191:18-192:18.

¹⁴⁸ Schumann Ex. 1 at Schumann 0029-0030 & Tr. Vol. I 191:18-192:18.

customer does not have enough load to justify" subtransmission service.¹⁴⁹ After speaking to Ms. Bellas, Mr. Weis believed **"this could be a situation where the region is attempting to preserve revenue by restricting a customer from moving to another rate...."**¹⁵⁰

It was only in mid to late May that Ms. Bellas finally discussed Schumann's request with Ms. Becks in Planning. And she did so then because Mr. Hrdy asked her to.¹⁵¹

B. Fearing lost monthly revenue, Mr. Hrdy took unusual steps to find "ammo" and other "reasons not to allow" Schumann's request for Rate GSU service.

Because he feared that CEI would lose revenue if Schumann changed to Rate GSU, and that there would be more customers who would benefit from Rate GSU service, Mr. Hrdy went "looking for ammo"¹⁵² in the tariff and seeking out engineering or planning "reasons not to allow"¹⁵³ Schumann to take Rate GSU service.

The record reflects Mr. Hrdy's interest in the revenue that would be lost if Schumann went on Rate GSU. As part of her job, Ms. Bellas sent monthly reports to advise Mr. Hrdy of projects and whether they are positive or negative and those reports have included a projected loss of revenue to CEI if Schumann changes rates.¹⁵⁴ Ms. Bellas testified that Mr. Hrdy got involved after learning that Schumann had an energy consultant (Mr. Risk)¹⁵⁵ who wants Schumann to "be fed from the 36 kV so they can take advantage of the GSU rate."¹⁵⁶ "My real

¹⁴⁹ Schumann Ex. 1 at Schumann 0029-0030 & Tr. Vol. I 191:18-192:18.

¹⁵⁰ Schumann Ex. 1 at Schumann 0029 & 0030 (emphasis added)).

¹⁵¹ Tr.184:11-16.

¹⁵² Schumann Ex. 1 at Schumann 0082

¹⁵³ Schumann Ex. 1 at Schumann 0035

¹⁵⁴ Tr. Vol. I 208:5-20.

¹⁵⁵ *Compare* Schumann Ex. 1 at Schumann 0029-0031 *with* Schumann Ex. 1 at Schumann 0035.

¹⁵⁶ Schumann Ex. 1 at Schumann 0035.

fear," he said in an email, "is that this being a consultant they are going to dig up more customers that would benefit from going on the GSU service."¹⁵⁷

Once involved, Mr. Hrdy took over the process to Schumann's prejudice. Ms. Bellas testified that Mr. Hrdy does not normally get involved in customer requests to change electric service.¹⁵⁸ And as of May 10, 2016, CEI's Rates Department personnel were not aware of what tariff support CEI would have to deny Schumann's request and wrote that Schumann "may have a right to be served by the higher voltage, if requested."¹⁵⁹ But Mr. Hrdy focused on "locations in the tariff where it states that choice of voltage will be at the option of the company" and kept "looking for ammo."¹⁶⁰ He also took over the planning and engineering process. After Mr. Hrdy asked CEI's Engineering Manager for "some reasons not to allow" Schumann's request for Rate GSU service, Mr. Uhlig reported that he couldn't "find anything in the Engineering practices that support our position."¹⁶¹ Randal Coleman, Manager of Distribution Standards, also indicated he "thinks we'll have to do what the customer wants...."¹⁶² He explained his experience

It is a two part answer "lines in the area" and specified by the company. In short we have been successful when the line extension is difficult or would compromise the integrity of the system. **We have been challenged and lost when we use only the 'because I said' answer.** ¹⁶³

¹⁵⁷ Schumann Ex. 1 at Schumann 0035.

¹⁵⁸ Tr. Vol. I 184:14-16.

¹⁵⁹ Schumann Ex. 1 at Schumann 0029-0031.

¹⁶⁰ Schumann Ex. 1 at Schumann 0082.

¹⁶¹ Schumann Ex. 1 at Schumann 0035 & Schumann 0081-0082.

¹⁶² Schumann Ex. 1 at Schumann 0082. He indicated Mr. Coleman wanted to "do some more checking," but there is no further evidence of Mr. Coleman's involvement. When Mr. Hrdy thanked certain people for a "great team effort" in holding "our ground" against Schumann's request, he did not include Mr. Weis or Mr. Coleman.

¹⁶³ Schumann Ex. 1 at Schumann 0081 (emphasis added).

But about the same time, Mr. Hrdy made two unusual requests in his search "for reasons not to allow" Schumann's request for Rate GSU service: first, he asked Ms. Bellas to talk with Planning Engineer Jean Becks and then second, asked Ms. Becks put in writing reasons for denying Schumann's request.¹⁶⁴ As a result, Ms. Becks sent Mr. Hrdy an email that that is the only written document of which she is aware stating guidelines for customer eligibility for 36 kV service.¹⁶⁵

Most telling is Mr. Hrdy's email to President John Skory and various Directors. The titled the email "Tariff Issue" (although he is not in the Rates Department) and claimed to be writing about "an issue we are having with an energy consultant" that "has the potential to impact how our planning and protection department decides what circuit we will feed our customers" (although he is not in Planning).¹⁶⁶ But the email was short on details regarding the Tariff or Planning and, instead, offered a more detailed description of the revenue impacts of Schumann's request – including CEI's approximate annual total revenue from Schumann and a calculation showing that "there is a big savings for the customer to go on the GSU rate."¹⁶⁷

Two weeks later, when Ms. Bellas wrote an email stating that Schumann was going to stay on Rate GS, Mr. Hrdy "thank[ed] everyone" for a "great team effort" holding "our ground" when a "consultant demanded that we put [Schumann] on the 36kV system so that they could take advantage of the GSU rate."¹⁶⁸ Tellingly, Mr. Weis and Mr. Coleman were not included on his email.

¹⁶⁴ Tr.184:11-16.

¹⁶⁵ Tr.282:8-285:21.

¹⁶⁶ Schumann Ex. 1 at Schumann 0110.

¹⁶⁷ Schumann Ex. 1 at Schumann 0108-0111.

¹⁶⁸ Schumann Ex. 1 at Schumann 0122.

Mr. Hrdy's involvement was not normal or typical, and disadvantaged Schumann – resulting in Mr. Hrdy taking control of processes that fell outside his department in order to "not allow" Schumann to change to Rate GSU service because it was working with a consultant who might find more customers who would benefit from Rate GSU. Even Dean Phillips, FirstEnergy's Manager of Distribution Planning and Protection and CEI's witness regarding the factors CEI considers in choosing service voltage for a customer,¹⁶⁹ said that it would be unreasonable if, as here,¹⁷⁰ lost revenues to CEI were considered and included as part of CEI's decision to deny Schumann's request to switch to GSU service.¹⁷¹

C. CEI has unreasonably discriminated against Schumann by allowing other new 36 kV connections without any showing they were required.

CEI is applying unreasonable guidelines in an unreasonably discriminatory manner. Only after Mr. Hrdy went looking for reasons to deny Schumann's request for Rate GSU service did CEI prepare a document of alleged policy guidelines limiting delivery voltage to the lowest voltage available with adequate capacity unless a higher delivery is required for engineering reasons.¹⁷² Even if CEI's Tariff supported CEI's policy (which it does not), CEI is unreasonably discriminating against Schumann by allowing other new customer connections to Rate GSU service without any showing of need or reason for the connection.

1. CEI has given other customers new 36 kV service with no evidence of need.

Although CEI claims it has a policy limiting 36 kV service, it has not applied that policy fairly or consistently. CEI has repeatedly claimed to Schumann that its Subtransmission System

¹⁶⁹ Company Ex. 29, Phillips Dir. Test. 2:3-5 & 3:8-9.

¹⁷⁰ Schumann Ex. 1 at Schumann 0108-0111.

¹⁷¹ Tr. Vol. II 357:23-358:13

¹⁷² Schumann Ex. 2 at Ex. C (Nov. 1, 2016 Ltr. R. Endris to M. Settineri); Schumann Ex. 1 at 1-INT-009; Company Ex. 29, Phillips Dir. Test. 6:13-17.

is restricted to customers whose load size or characteristics cannot be served from the distribution circuit or for other engineering reasons.¹⁷³ The hearing evidence, however, contradicts that and shows that CEI has allowed new connections to its 36 kV Subtransmission System without any evidence that service was "required" because customer load could not be served at lower voltages or for other engineering reasons.

Since 2015, CEI has provided new Subtransmission Service to ten premises.¹⁷⁴ Despite its new restrictive policy and alleged engineering concerns, CEI could not provide any reason why six of those ten "required" Subtransmission Service.¹⁷⁵ Thus, at the same Ms. Bellas was rejecting Schumann's request for 36 kV service and Mr. Hrdy was looking for reasons to deny Schumann's request, CEI was approving new connections to its 36 kV circuits— including two in 2017 – despite the fact that 60% were approved without a documented reason that Subtransmission Service was required at all.

CEI's inconsistent application of the policy shows that Schumann has been unjustly and unreasonably disadvantaged and denied available Rate GSU service. This conclusion is supported by the fact that:

- Schumann's load is significantly larger than both mean and median loads of CEI's other customers receiving 36 kV service,¹⁷⁶
- CEI's Rates Department did not identify any support for denying Schumann's request,¹⁷⁷

¹⁷³ Schumann Ex. 1 at Schumann 0200 (June 10, 2016 email D. Bellas to D. Robertson), Schumann 0197 (July 21, 2016 email D. Becks to J. Benson); Schumann Ex. 2 at Ex. C (Nov. 1, 2016 Ltr. R. Endris to M. Settineri); Schumann Ex. 1 at 1-INT-009.

¹⁷⁴ Schumann Ex. 1 at 4-INT-002, 4-INT-004 & 4 INT 004 Attachment1; Schumann Ex. 5; Tr. Vol. I 222:18-228:18.

¹⁷⁵ Schumann Ex. 1 at 4-INT-002, 4-INT-004 & 4 INT 004 Attachment1; Schumann Ex. 5; Tr. Vol. I 222:18-228:18.

¹⁷⁶ Schumann Ex. 1 at 2-INT-017(b) (median monthly billing demand of 0.45 MW) & (c)(average of 1.05 MW).

¹⁷⁷ Schuman Ex. 1 at Schumann 0029 & 0030.

- CEI's Manager of Engineering saw no basis in the engineering practices to deny Schumann's request,¹⁷⁸
- CEI can show no reason why 60% of new 36 kV connections were approved,¹⁷⁹
- CEI's Customer Support Representative repeatedly rejected Schumann's request before finally consulting Becks in Planning in May 2016,¹⁸⁰ and
- CEI's Customer Support Manager became unusually involved because he feared that if Schumann was allowed to take 36 kV service then Schumann's consultant would find more customers who would benefit from Rate GSU service.¹⁸¹

Considered together, those circumstances show that what Mr. Weis in CEI's Rates Department thought could be true is in fact true: this is **"a situation where the region is attempting to preserve revenue by restricting a customer from moving to another rate...."**¹⁸²

2. Even if applied consistently, CEI's policy restricting 36 kV service is unjust and unreasonable.

Even if CEI applied its policy consistently (which it has not), it would still be unjust and unreasonable because it provides an unsupported basis to reject requests, like Schumann's, for required Rate GSU service. The premise of CEI's policy is that every customer connection to its 36 kV system erodes or incrementally degrades the system.¹⁸³ But those claims do not withstand scrutiny. As shown by the hearing testimony of Mr. Bunty Kumar, an electrical engineer for more than 20 years with a decade of experience planning utility systems, those statements lack any technical justification and are too vague and non-specific to credit.¹⁸⁴ He explains:

Utility customers, especially industrial customers, can be and are connected to subtransmission circuits without unreasonably impairing system reliability. To

¹⁷⁸ Schumann Ex. 1 at Schumann 0035 & Schumann 0081-0082.

¹⁷⁹ Schumann Ex. 1 at 4-INT-002, 4-INT-004 & 4 INT 004 Attachment1; Schumann Ex. 5; Tr. Vol. I 222:18-228:18.

¹⁸⁰ Tr. Vol. I. 180:2-190:15; Schumann Ex. 2, Schumann Dir. Test. 13:7-8 & 14:1-3

¹⁸¹ Schumann Ex. 1 at Schumann 0035.

¹⁸² Schumann Ex. 1 at Schumann 0029 & 0030 (emphasis added)).

¹⁸³ Schumann Ex. 1 at 1-INT-009; Schumann Ex. 2 at Ex. B (Nov. 1, 2016 Ltr. R. Endris to M. Settineri).

¹⁸⁴ Schumann Ex. 4, Kumar Dir. Test. 6:17-7:12.

determine whether a customer connection could unreasonably impair system reliability, professional electrical engineers and utility system planners have programs and procedures available. I've seen no evidence that CEI used any of those programs or procedures when it denied I. Schumann's request to change to subtransmission service.¹⁸⁵

CEI's engineers admit as much. They admit CEI has not studied, determined or quantified any alleged incremental risk caused by customer connections and can point to no other study of any such risk.¹⁸⁶ Nor are they aware of any outages on the 36 kV system caused by any customer connection.¹⁸⁷

Not only does CEI have no engineering or technical support for its policy, its policy is unreasonable in relation to generally accepted practices at other utilities. To evaluate customer requirements, as CEI's Tariff requires, against system reliability and risks, planners use "computer software and algorithms to analyze customer-supplied information and applicable technical considerations such as simulated power flow, load growth (measured in usage or consumption (kWh)), potential outages, and appropriate scenarios to determine reasonable risks to reliability for various customers' connections in the area."¹⁸⁸ In that way, they conduct a controlled and focused review of a customer request to using models and simulations of relevant conditions."¹⁸⁹ This is a generally accepted method that allows a system planner to provide a customer with a thoughtful "list of options, the analysis of system changes required to accommodate the customer's request, and detailed explanations of costs to be borne by the customer."¹⁹⁰

¹⁸⁵ Schumann Ex. 4, Kumar Dir. Test. 3:7-12.

¹⁸⁶ Tr. Vol. II 292:9-22 & 319:5-8 & 321:22-24.

¹⁸⁷ Tr. Vol. II 325:13-9.

¹⁸⁸ Schumann Ex. 4, Kumar Dir. Test. 4:14-18.

¹⁸⁹ Schumann Ex. 4, Kumar Dir. Test. 4:12-14.

¹⁹⁰ Schumann Ex. 4, Kumar Dir. Test. 4:10-5:2.

Instead of employing a thoughtful list of options and analysis, which are generally accepted practices, CEI instead applied an unreasonable and unsupported policy to reject Schumann's request for CEI's own financial gain. As Mr. Kumar testified, that is not reasonable:

I see no reasonable, reliable electrical engineering or system planning reasons that I. Schumann should not be allowed to change to subtransmission service. Neither cost nor complexity appears to be an obstacle to connecting I. Schumann to the subtransmission system. I understand that I. Schumann wants to change service to secure a lower tariff rate, to improve reliability and reduce the probability of service outages, to provide capacity for expansion, and to free up funds for capital investment. **In my professional experience, those are the kinds of circumstances when industrial customers have been allowed and even encouraged to take subtransmission service. I see no reason that I. Schumann shouldn't be provided subtransmission service.**¹⁹¹

CEI's decision to deny Schumann's request for Rate GSU was unduly discriminatory.

VII. FOURTH ARGUMENT: CEI's eleventh hour distinction of "formal" and "informal" requests is further evidence of CEI's discriminatory treatment of Schumann.

At hearing, Ms. Bellas tried to justify her actions and how she handled Schumann's request for GSU service by claiming that Schumann's request was an "informal" request and not a "formal" request.¹⁹² Her attempt to justify her actions by characterizing Schumann's request as an "informal" request and not a "formal" request simply reinforces the discriminatory nature of CEI's review of Schumann's request.

For example, her testimony that Schumann should have filed a "formal request" contradicts her written direct testimony. As earlier explained, Ms. Bellas' in her written direct testimony claimed that in response to Schumann's "request," she contacted Ms. Becks on Planning.¹⁹³ But her testimony on cross-examination revealed that she did not do that for

¹⁹¹ Schumann Ex. 4, Kumar Dir. Test. 7:16-8:2 (emphasis added).

¹⁹² Tr. Vol I 183:17-21. Tr. Vol I 175:6-183:16.

nearly eight months after Schumann's initial request to her, that she did so only when directed by Mr. Hrды, and that during that time she repeatedly wrote to Schumann's representatives that Schumann did not qualify for Rate GSU service.¹⁹⁴ As well, her claim that Schumann's request was informal gave her an opportunity to shift the blame to one of Schumann's consultants and to claim that he had been told orally to make a formal request.¹⁹⁵

Ms. Bellas' multiple communications with Schumann's representatives also do not support her claim¹⁹⁶ that there are different procedures for formal versus informal requests. When told by Schumann's representative that Schumann "would like to get on the GSU rate" and asked "what if anything can be done to make it happen," she did not say that Schumann should submit a formal request but, instead, said Schumann has "been informed that based on current load of both meters, it DOES NOT warrant them going off the GSU rate. They can either go GS Rate ... or GP Those are there options."¹⁹⁷

Likewise, when she was then asked in March 2016 "**why the GSU sub transmission service request is being denied**," she did not say it wasn't being denied or say it was only informally denied but, instead, falsely claimed that "**our planning and protection** department ... has ... **determined ... that based on customer's current loads they do not warrant going off the sub transmission service**."¹⁹⁸

When Schumann's CFO wrote to say "we still feel very strongly that we should be able to qualify for CEI's GSU rate" and asked to "discuss this with you or your boss," she did not say that the request should go to Planning or that a formal request would be needed but, instead,

¹⁹⁴ Company Ex. 25 4:8-11; Tr. Vol I 180:2-183:11, 184:11-16 & 188:10-190:15.

¹⁹⁵ Tr. Vol I 232:14-233:2.

¹⁹⁶ Tr. Vol I 184:14-183:11 & 188:10-190:15.

¹⁹⁷ Schumann Ex. 1 at Schumann 0019.

¹⁹⁸ Schumann Ex. 1 at Schumann 0019.

responded that "your load doesn't warrant your company going on the GSU rate, especially since your current distribution has adequate load to serve your company."¹⁹⁹

Finally, Ms. Bellas claimed that she did not tell anyone in writing that a formal request was needed because she claims her communications were with Mr. Avers as Schumann's designated consultant and she had (allegedly) told him in a hallway after a meeting that he needed to submit a formal request.²⁰⁰ If Ms. Bellas had ignored and not responded to the emails from Mr. Risk and Mr. Benson and Mr. Robertson, perhaps it would be credible that she was communicating only with Mr. Avers. But she did respond to their emails, and her responses clearly and expressly communicated that Schumann could not receive Rate GSU service.²⁰¹

Ms. Bellas was not the only CEI representative to communicate express denials to Schumann on its request for Rate GSU service. Notably, when Schumann's counsel wrote CEI's counsel on October 11, 2016 to make a "formal request," for Subtransmission Service under Rate GSU, CEI's counsel did not respond saying that a formal request had to go through the call center but, instead, acknowledged the request, claimed that it had already been reviewed by Planning (on or about May 24, 2016), and said that Schumann would stay on the 13.2 kV circuit.²⁰²

Ms. Bellas' testimony at hearing (for the first time) about "informal requests" in light of the repeated express denials to Schumann shows the shifting sands that CEI is forcing Schumann to walk. Not one single other document in the case describes or distinguishes

¹⁹⁹ Schumann Ex. 1 at Schumann 0200.

²⁰⁰ Tr. Vol I 232:14-233:2.

²⁰¹ Tr. Vol I 180:2-183:11, 184:11-16 & 188:10-190:15.

²⁰² Compare Schumann Ex. 2, Ex. C (Nov. 11, 2016 Ltr. R. Endris to M. Settineri) (re review) with Schumann Ex. 11 (on or about May 24, 2016).

formal versus informal requests. No written policy, no tariff provision, no email, not even a set of notes. As well, none of CEI's direct testimony identifies any such distinction. Ms. Bellas claim at hearing (for the first time) that CEI would have processed or handled Schumann's request differently had a formal request been made is simply a continuation of and evidence of CEI's discriminatory conduct towards Schumann.

To the extent CEI attempts to argue that Schumann should have submitted a request for Rate GSU to CEI's call center, any such argument is irrelevant because it makes no difference substantively whether a "formal" or "informal" request was made. As CEI witness Becks testified, in either case, the request would go to Planning.²⁰³ And if presented formally with the same request, Ms. Becks testified she would look at the same factors – load, capacity and effects on other customers – and assuming no change, would reach the same determination.²⁰⁴

Any attempt by CEI to shift the focus in this proceeding away from its actions to the debate of an "informal request" versus a "formal request" is simply a continuation of its discrimination toward Schumann in an attempt to preserve revenue. CEI cannot hide from its conduct and reasons for its discriminatory denial of Schumann's request to go on Rate GSU.

VIII. CONCLUSION

The record in this proceeding reveals that CEI wrongly denied Schumann's service change request based on the revenues CEI would lose if Schumann was connected to CEI's subtransmission service and then manufactured reasons to support its denial of Schumann's connection request. The record and interpretation of CEI's Tariff also support the conclusion

²⁰⁴ Tr. Vol II 280:3-282:3.

that under CEI's Tariff Schumann qualifies for Subtransmission Service and a delivery voltage of 36 kV service, and that Schumann "requires" Rate GSU, a requirement on the availability of that rate schedule to a customer. The record evidence also supports Schumann's argument that it is not receiving adequate service from CEI's low voltage distribution system and that Schumann continues to experience outages that have a costly and adverse impact on its melting operations. Lastly, the record evidence is clear that CEI unduly discriminated against Schumann as it took steps after the fact to justify its prior written refusal to provide Schumann with Subtransmission Service. A public utility has a duty to serve its customers, and CEI violated that duty to its long-time customer, I. Schumann & Company.

Given CEI's Tariff and the record evidence, the Commission should grant the relief that Schumann seeks in its Complaint, ordering CEI to allow Schumann to receive service under the Rate GSU schedule and at Subtransmission Service.

Respectfully submitted,

/s/Michael J. Settineri

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