BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF THE APPLICATION OF OKLAHOMA GAS AND ELECTRIC COMPANY FOR COMMISSION APPROVAL OF ELECTRIC SERVICE AGREEMENTS AND PREAPPROVAL OF CAPACITY PURCHASE AGREEMENTS PURSUANT TO 17 O.S. 286(C)	))))))	CASE NO. PUD 2026-000031

REDACTED

RESPONSIVE TESTIMONY OF FRANK MOSSBURG

ON BEHALF OF

THE PUBLIC UTILITY DIVISION

AUGUST 5, 2026

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I. QUALIFICATIONS

Q. Please state your name, business position, and business address.

A. My name is Frank Mossburg. I am a Partner with Bates White Economic Consulting, LLC (Bates White). My business address is 2001 K Street NW, North Building, Suite 500, Washington, DC 20006.

Q. What is your relationship to the Oklahoma Corporation Commission's Public Utility Division (PUD)?

A. Bates White was hired to assist PUD by providing expert witness services regarding the application of Oklahoma Gas & Electric Company (OG&E or the Company) for an order granting approval of three Electric Service Agreements (ESAs) and preapproval of two Capacity Purchase Agreements (CPAs). The views expressed herein are my own.

Q. Please summarize your educational background.

A. I earned my MBA from the University of Virginia's Darden School of Business and my undergraduate degree in economics, *cum laude*, with a concentration in finance from the Wharton School of the University of Pennsylvania.

Q. Have you previously testified before the Oklahoma Corporation Commission (the Commission)?

A. Yes. I have previously testified in several other cases, including those regarding; (a) Public Service Oklahoma (PSO)'s request for preapproval of cost recovery from several

generating facilities (PUD 2025-000064), (b) PSO's acquisition of the Green Country facility, (c) PSO's 2013 Wind Request for Proposal (RFP), (d) PSO's 2019 Wind Energy RFP, (e) PSO's application for preapproval of cost recovery for resources from the 2021 Wind and Solar RFP and (f) PSO's proposed Wind Catcher Energy Connection Project. I also submitted testimony regarding Oklahoma Gas & Electric's purchase of the Crossroads wind farm.

In addition, I led the work serving as the Independent Evaluator (IE) for OG&E's 2024 All Source RFP and 2026 and 2027-2028 Bridge Capacity RFPs. I have also led the Bates White team as the IE for several PSO transactions, including their 2023 All Source RFP, 2016 Wind RFP, 2020 Capacity RFP, 2021 Wind and Solar RFPs, and RFPs for resources sited at the Ft. Sill military base. I am currently leading our efforts as the IE for OG&E's 2026 All Source RFP and April 2026 Bridge Capacity RFP and PSO's 2026 All Source RFP.

Q. Have you testified elsewhere?

A. Yes, I have appeared formally and informally before commissioners and staff in New Jersey, Delaware, Maryland, Minnesota, Oregon, Ohio, Pennsylvania, and the District of Columbia. I have addressed an array of topics related to resource choice, including RFP design, contract negotiation, resource planning, costs of conventional and renewable generating technologies and procurement results. A list of my testimonies and publications is attached as Exhibit FJM-1.

Q. Please summarize your relevant professional experience.

A. I have extensive experience providing advice to state commissions on resource choice decisions, with a specialty in the design, implementation, and monitoring of competitive procurements for both traditional and renewable resources. My experience covers the full range of tasks, including resource planning, bid evaluation, and contract negotiation.

On behalf of the Oregon Public Utility Commission, I led efforts to serve as the IE for six RFPs from PacifiCorp (2012 Baseload, 2008 and 2012 All Source, 2008R-1, 2009R, and 2017R Renewable RFPs) as well as Portland General Electric's 2018 Renewables RFP and 2021 and 2023 All Source RFPs. In each of these engagements I participated in the entire RFP process, including: (a) reviewing the design of the RFP; (b) qualifying, reviewing, and scoring both third-party and company-sponsored bids; (c) recommending initial and final shortlists of bids; and (d) monitoring negotiations of final contracts with winning bidders. For each of these engagements I authored or co-authored reports and appeared before the Oregon Commission to make recommendations regarding RFP design, bid evaluation, and selection of winning bids.

On behalf of the Washington Utilities and Transportation Commission I have led the Bates White team in engagements as the IE for Puget Sound Energy's 2026, 2024 and 2021 All Source, 2022 Distributed Resources and 2023 through 2025 Distributed Solar and Storage RFPs and PacifiCorp's 2022 All Source RFP. My work encompasses review of RFP design, monitoring and evaluating offers and monitoring contract negotiations.

I also have extensive experience in the design and monitoring of full requirements procurements. I lead or have led efforts as IE in multiple engagements on behalf of commissions (a) in Ohio since 2009 as the commission consultant for Standard Service Offer procurements by FirstEnergy, Duke Energy Ohio, AES Ohio, and American Electric Power Ohio; (b) in New Jersey as the Board Advisor for the Statewide Basic Generation Service Auctions since 2007; (c) in Washington D.C. as the Commission's Technical Monitor for Standard Offer Service (SOS) Procurements since 2007; (d) in Maryland as the Commission's Technical Advisor for SOS procurements by all Maryland Electric Distribution Companies from 2009-2016 and 2019-2026; (e) in Delaware as the Commission's Monitor for Delmarva Power & Light's SOS RFPs from 2007-2009; and (f) in Pennsylvania as the IE for West Penn Power's 2009 RFP for Provider of Last Resort Service.

II. PURPOSE AND SUMMARY OF TESTIMONY

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to review OG&E's request for relief in this docket. This includes the approval of three Electric Service Agreements (ESAs) with Google as the ultimate customer and two Capacity Purchase Agreements (CPAs). The CPAs are provided by Google as part of the transaction.

Q. What are your conclusions?

A. I have come to the following conclusions:

- OG&E demonstrates a need for new generation supply.
- The CPAs feature standard contractual protections, are priced lower than recent market transactions, and appear to be a unique opportunity.
- The ESAs feature reasonable protections for ratepayers.
- While the CPAs cover a portion of the future need, additional procurement would be needed if load appears as projected in the ESAs. Therefore care must be taken during actual rate setting to assure cost shifts do not impact residential ratepayers.
- The Commission should act to establish guidelines for a process by which the impact of adding this new load will be determined to avoid future disputes.

III. OG&E DEMONSTRATES A NEED FOR NEW GENERATION SUPPLY

Q. Why is OG&E requesting preapproval of the CPAs?

A. OG&E's request to approve the CPAs is tied in part to whether or not they have a need for additional resources. To assess this claim, it is helpful to look first at OG&E's baseline purported needs without the ESAs or the CPAs.

Q. What claims does OG&E make regarding its current resource position?

A. In testimony and workpapers Witness Shoop shows 976 MW of summer need, without the CPAs, growing to over 2,200 MW in 2033. The same testimony shows winter need at almost 1,200 MW in 2028 and about 2,500 MW in 2033.[1]

Q. Does this include the demand from the ESAs?

A. Per OG&E this need calculation includes the demand from the three ESAs.[2] If we remove the demand from the ESAs from the calculation OG&E would still need new resources. Needs in the summer would be [redacted] in 2028 rising to [redacted] in 2033. Winter needs would be [redacted] in 2028/29 rising to [redacted] in 2033/34. See Table 1 below.

[1] Shoop direct, p 6.

[2] DR PUD 7-01.

Table 1 – Existing Need, No CPAs or ESAs

Summer Needs	2026	2027	2028	2029	2030	2031	2032	2033
Required Capacity								
Resources								
Deficit without CPAs								
ESA demand								
Deficit without CPAs or ESA demand								
Winter Needs		2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34
Required Capacity								
Resources								
Deficit without CPAs								
ESA								
Deficit without CPAs or ESA demand								

Sources - AG 2-01, AG 3-01

Q. Has this need been updated to your knowledge?

A. Not to my knowledge. While the need presented in testimony comes from the Company's Draft 2026 IRP, a review of the final 2026 IRP shows no real change. The Summer and Winter "Needed Capacity" essentially match the "Deficit without CPAs" reported above.[3]

Q. Are there any additional factors to review?

A. The current resource planning environment is characterized by large prospective load additions (mostly from data centers) which may or may not come to fruition. This creates more risk in resource planning than more traditional load growth, which is smaller, more consistent, and predictable. Therefore, it is important to check that the reported needs are not overly influenced by large speculative additions. We can check this in several ways. First, when asked about other new large customers (i.e. over 75 MW) included in the

[3] 2026 IRP p 12-13.

purported need beyond the three ESAs at issue, OG&E only cited [redacted] [redacted].[4]

Q. Are there other ways we can confirm that the load forecast is not unduly influenced by large load additions?

A. A further check on this effect can be done by reviewing overall load growth year by year. This is complicated somewhat because OG&E (in conformance to SPP policy) moves their demand response programs from a reduction in peak demand to a supply option in 2028. However, going forward from 2028 we see summer and winter needs – without the projected Google load – growing at [redacted] or less.See Table 2 below.

Table 2 – Load Growth without ESAs

Summer Needs	2028	2029	2030	2031	2032	2033
Required Capacity	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
ESA demand	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Required Capacity without ESAs	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Growth		[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Winter Needs	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34
Required Capacity	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
ESA demand	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Deficit without CPAs	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
ESA demand	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Q. Are there other ways we can monitor this effect?

[4] DR AG 1-05.

A. Yes. OG&E states that their policy toward new large load additions is to only include those customers with a signed contract for electric service.[5] This helps eliminate more speculative load.

Q. Based on this analysis, does the forecast appear to be unduly affected by large load additions?

A. It does not. Again, this is all without even considering projected load from the ESAs. Adding this would increase deficits even more. Therefore, given the needs of the ESAs and OG&E's reported existing position it appears that there is a need for resource additions.

[5] DR PUD 8-01.

IV. THE CPAs FEATURE STANDARD CONTRACTUAL PROTECTIONS, ARE PRICED LOWER THAN RECENT MARKET TRANSACTIONS, AND APPEAR TO BE A UNIQUE OPPORTUNITY

Q. Does OG&E present any resources to cover this need?

A. OG&E presents two capacity purchase agreements (CPAs) for approval as part of this filing. These cover the purchase of capacity from two new solar facilities. This is meant to, in part, cover for the needs generated by the new ESAs.

Q. Does OG&E cite a specific statue in requesting approval?

A. OG&E is requesting pre-approval of the CPAs under 17 OS 286c. Under this statute the Commission must find that there is a need for the resource and that there has been a consideration of reasonable alternatives.

Q. What facilities are covered under the CPAs?

A. The CPAs source capacity from two solar facilities: Rush Springs, a 200 MW facility to be located in Stephans County Oklahoma, and High Springs, a 400 MW facility to be located in Muskogee County Oklahoma. Both projects are to be constructed by NextEra Energy. Google will purchase [redacted] from these facilities under separate agreements.

Q. What format do the CPAs use?

A. The CPAs utilize [redacted]. Specific details of the transactions are spelled out in [redacted], provided as exhibits MJS-1 and MJS-2 to the Testimony of Matthew J Schuremann.

Q. What time period do the CPAs cover?

A. The CPAs cover the period from [redacted] through [redacted].[6] They cover [redacted] as defined by SPP [redacted].[7] If SPP revises their resource adequacy requirements such that [redacted].[8]

Q. How much capacity is provided by the CPAs?

A. The CPAs provide for the supply of SPP-accredited capacity from the facilities. The percentage of nameplate capacity that may be counted as accredited capacity is determined by the Effective Load Carrying Capability or ELCC. This is assessed annually. Per SPP the current ELCC for solar ranges from 55.6% to 74.1% for the summer months and 12.0% to 24.9% for the winter months depending on the "Tier" of

[6] MJS-1 p 6 and MJS-2 p 6.

[7] MJS-1 p 9 and MJS-2 p 9.

[8] MJS-1 p 6 and MJS-2 p 6.

capacity provided. [9] OG&E analysis assumes the contracts will provide a total of [redacted] of annual accredited capacity in the summer and [redacted] in the winter.[10]

Q. What is the price of the capacity?

A. The contract price is [redacted].[11] This means [redacted]. OG&E only pays for the accredited capacity received.[12] Google has the right to [redacted]. They may only do this [redacted].[13] OG&E will not incur any additional costs as a result.

Q. Are the CPAs linked to the ESAs?

A. In connection with the CPAs there is a clause which notes that [redacted].[14] [redacted].[15]

[9] SPP 2026 ELCC study.

[10] Response to DR AG 2-01.

[11] MJS-1 p 9 and MJS-2 p 9.

[12] Schuermann direct, p 4.

[13] MJS-1 p 3-5 and MJS-2 p 3-5.

[14] MJS-1 p 9 and MJS-2 p 9.

[15] MJS-1 p 17 and MJS-2 p 17.

Q. What other protections are provided?

A. As credit support [redacted].[16] If there is a failure to deliver [redacted].[17]

Q. What is your conclusion regarding the CPA risk protections?

A. Overall, the CPAs feature reasonable risk protections for ratepayers. They employ a commercially accepted framework and include such protections as credit support and non-delivery penalties. In addition, the fact that payment is made only for SPP-accredited capacity helps protect against further lowering of ELCC values for solar facilities. This is a likely outcome in future years as solar resources increase penetration in SPP.

Q. Is there need for further analysis?

A. While the need for the CPAs is covered above, the cost of the transactions must be compared against reasonable alternatives prior to approval. More practically, OG&E is in the process of conducting both All Source and Bridge Capacity RFPs, so a natural

[16] MJS-1 p 11 and MJS-2 p 11.

[17] MJS-1 p 15 and MJS-2 p 15.

question to ask would be whether it would be better to simply fill the supply need from those RFPs.

Q. Does OG&E make any claims regarding the cost of the CPAs?

A. Per OG&E, when compared to CPAs from the completed 2024 All Source RFP the two CPAs were lower in cost than any other CPA bid received on both a monthly cost and, more importantly, on a total annual cost.[18] An independent review of this claim shows this to be accurate. Looking at the two CPA bids provided from the 2024 All Source RFP, the [redacted] capacity contract [redacted] is [redacted] and increases to [redacted].[19] [redacted] offered a price of [redacted] [redacted].[20]

Q. Does it appear that current offers might be as good or better than the CPAs?

A. Bates White served as the Independent Evaluator (IE) for the 2024 All Source RFP and is currently serving as the IE for the 2026 All Source RFP and Bridge Capacity RFP. In the current All Source RFP there is nothing we have seen in the bids which suggest that prices are coming down. This makes sense when viewed against the overall tightening of

[18] Schuermann direct, p 4.

[19] DR PUD 3-01 At 1, HSC.

[20] Ibid.

the capacity market as more load seeks to get on the SPP system. We also did not observe any significant price decreases for capacity in the recent OG&E Bridge Capacity RFP.

Q. Are the CPAs a reasonable addition to OG&E's supply portfolio?

A. The best way for resources to be compared against each other is for them to be bid into an RFP. While that did not happen with these resources the CPAs feature reasonable protections for rate payers, the contract price is much lower than similar CPAs in the 2024 RFP, and prices in current RFPs are not decreasing, suggesting that better offers are not coming in future procurements.

Importantly, [redacted] – meaning they will likely not be offered into a future RFP – making them a unique opportunity. Therefore, it appears that they are a reasonable addition to OG&E's supply portfolio. Having said that, I would encourage the Company to continue to use the RFP mechanism to compare offers going forward.

V. THE ESAs FEATURE REASONABLE PROTECTIONS FOR RATEPAYERS

Q. Does OG&E request approval of other contracts besides the CPAs?

A. OG&E presents for approval three Electric Service Agreements (ESAs) for new service from three planned Google data centers. Each Agreement is essentially the same but for the size, location and timing of the load. In total the three ESAs represent an extremely large addition to the Company's requirements. Taken together the three contracts represent a maximum addition of [redacted] to the system. For reference, OG&E's 2027 summer peak demand forecast (prior to effects of DSM programs) is 7,613 MW.[21]

Q. What should we look for in reviewing the ESAs?

A. When reviewing agreements such as these we should be mindful of the harms we are trying to mitigate. The issue with customers of this size is that they often require heavy up front investments in generating capacity as well as transmission and distribution infrastructure. Should the customers not materialize as planned, regular ratepayers would be left to pay for these unneeded investments. The fact that many data centers have been subject to delay and outright cancellation should leave us even more concerned.

Q. Do you have an example of such delay?

A. By way of an example, [redacted]

[21] 2026 IRP p 12.

[redacted].[22] This was later superseded and amended. While the current ESA seems to contemplate that same quantity ([redacted]) at the end of 2027 the fact remains that the current load is zero. Therefore, we are looking for protections such as long term commitments, high minimum billing requirements, credit support, and harsh penalties for early termination.

Q. What is the term of the agreements?

A. The contracts feature an extended service term. The service starts with a "Pre-Commissioning Period" and moves into a "Commissioning Period", then a "Load Ramp Period," and then moves into an "Initial Term" of [redacted] years.[23] This generally covers a period from now until [redacted] or [redacted] depending on the site.

Q. What is the demand?

A. As is customary with these types of projects the monthly demand starts relatively small ([redacted]) and ramps up over several years to maximum demands of [redacted].[24]

Q. What are the minimum service terms and charges?

A. The customer may request a termination at the end of the [redacted] year of the Initial Term, but this is subject to a [redacted] written notice, meaning that the customer must take service

[22] DR PUD 5-04, HSC.

[23] JPL-1, p 5, JPL-2, p 5, and JPL-3, p 6.

[24] JPL-1 through JPL-3, Exhibit A.

for [redacted] of the initial term at a minimum.[25] If the customer elects to terminate they will pay an exit fee equal to [redacted]. This will be no more than [redacted] worth of minimum fees.[26] [redacted].[27]

The customer agrees to minimum changes which include a minimum billing demand charge of [redacted] of the Contract Demand and a minimum billing energy charge which assumes an [redacted] capacity factor.[28] The customer will take service at the LPL-TOU rate, or a successor rate.[29]

Q. Can the customer adjust their demand?

A. The customer does have the right to reduce their capacity by up to [redacted] one time. This is also subject to a [redacted] written notice, which may be delivered at the end of the [redacted]

[25] Ibid, 3.03.a.

[26] Ibid, 3.03.b.

[27] Ibid 3.03.d.

[28] Ibid, 5.02.

[29] Ibid, 5.01.

year of the Initial Term and the customer must pay minimum charges owed for that reduced demand for the remainder of the contract term.[30]

Q. Does the customer provide credit support for their payment obligations?

A. Yes, the customer must provide credit support in the form of [redacted].[31]

Q. Are there any other clauses worthy of note?

A. The customer does agree and acknowledge that potential adverse rate impacts to other rate classes will be reviewed in each general rate case and review for the Fuel Cost Adjustment to ensure that these agreements do not result in adverse rate impacts to other customer rate classes.[32]

Q. What is your conclusion regarding these agreements?

A. I conclude that the ESAs provide reasonable protections for ratepayers. In particular the multi-year service terms combined with the minimum charge provisions and credit support help ensure that the customer will pay their obligations under the contracts.

[30] Ibid 4.02.

[31] Ibid 6.04.

[32] Ibid 5.01.c.

VI. WHILE THE CPAS COVER A PORTION OF THE FUTURE NEED ADDITIONAL PROCUREMENT WOULD BE NEEDED IF LOAD APPEARS AS DESIGNATED IN THE ESAS.

Q. Are there any additional noteworthy risks to this transaction?

A. While the ESAs do have customer protection features it is important that the Commission recognize the potential magnitude of the additional costs that will be incurred in serving this load and take care in setting the actual rate paid by Google and other Large Load Customers.

Q. Can you provide an example of this risk?

A. As a quick and purely theoretical demonstration, the potential peak demand from the three facilities is [redacted]. While the provided CPAs are reasonably priced, they will only cover approximately 240 MW per year (on average). This still leaves [redacted] of capacity needed to supply the customer. As discussed above, OG&E does not currently have the resources to cover this increase.

Q. How much could this new capacity cost?

A. The cost of this new capacity is uncertain, but for the purposes of this exercise we can make a rough estimate just looking at the cost of recent acquisitions. If we examine OG&E's analysis of the cost shifting of additional MWh, we see that in 2030 to 2036 Horseshoe Lake 13 and 14 will cost customers roughly [redacted] in demand

charges.[33] At that rate, the additional capacity to serve these contracts would cost [redacted] [redacted] per year.

The current LPL-TOU demand charge is $7.08/kw-month, or $84.96/kw-year. If this was the demand rate Google actually paid they would only bring in about $79 million per year to offset the cost of additional capacity.

Q. Does this mean the ESAs will raise residential rates?

A. This is just a hypothetical example. I understand and acknowledge that the OCC is not setting a final rate in this case and will do so elsewhere. This exercise is only meant to demonstrate the magnitude of costs that might be needed on the system should Google's projects develop as planned.

Q. Will the additional energy from the facilities help lower residential costs as OG&E proposes?

A. I agree that additional MWh from the facilities could help shift demand indictors in such a way as to be beneficial to residential ratepayers, but such impacts must also analyze the raw costs of new supply. OG&E's analysis merely looks at the former factor.

[33] DR PUD 5-09At 2, Conf.

VII. THE COMMISSION SHOULD ACT TO ESTABLISH GUIDELINES FOR A PROCESS BY WHICH THE IMPACT OF ADDING THIS NEW LOAD WILL BE DETERMINED TO AVOID FUTURE DISPUTES

Q. Do the ESAs address potential impacts to residential customers?

A. The ESAs do feature a clause which states that "[redacted]"[34]

Q. What is your assessment of this clause?

A. This is certainly better than nothing, however, given the amount of investment needed to serve the ESAs and potential for impacts to residential ratepayers I would recommend that the OCC establish guidelines as to how such rate impact calculations would work. Without such guidance parties may provide their own calculations to further their own positions. This will make reviews quicker and subject to less debate.

Q. What guidelines would you suggest?

A. I would suggest that the guidelines include the following;

- The review should use the cost of capacity acquisitions going forward, rather than the overall average cost of supply. This helps address the fact that new supply, likely more expensive than current supply, will be needed to serve these customers.

[34] JPL-1 through JPL-3, 5.01.c.

- The review may count the CPAs towards the cost of supplying Google's needs to acknowledge the fact that this supply is [redacted].
- When studying the effect of shifting demand allocators the review should only count the effect of removing Google's load from the calculation.
- The review should not consider second-order effects of the investment such as job creation.
- If an early termination or capacity reduction occurs the review should consider [redacted].

VIII. CONCLUSIONS AND RECOMMENDATIONS

Q. What are your conclusions?

A. I make the following conclusions:

- OG&E demonstrates a need for new generation supply.
- The CPAs feature standard contractual protections, are priced lower than recent market transactions, and appear to be a unique opportunity.
- The ESAs feature reasonable protections for ratepayers.
- While the CPAs cover a portion of the future need additional procurement would be needed if load appears as designated in the ESAs. Therefore care must be taken during actual rate setting to assure cost shifts do not impact residential ratepayers.
- The Commission should act to establish guidelines for a process by which the impact of adding this new load will be determined to avoid future disputes.

I state, under penalty of perjury under the laws of Oklahoma, that the foregoing is true and correct to the best of my knowledge and belief.

/s/Frank Mossburg
Frank Mossburg

CERTIFICATE OF SERVICE

This is to certify that on the 5th day of August 2026, a true and correct copy of the above and foregoing *Redacted Responsive Testimony of Frank Mossburg* was electronically served via the Electronic Case Filing System to those on the Official Electronic Case Filing Service List, or via electronic mail to the following persons:

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