

# **MCE, Marin Clean Energy: A Series of Missteps Highlight Need for Governance Changes**

**June 16, 2026**

## **SUMMARY**

MCE (Marin Clean Energy), one of California’s 25 not-for-profit renewable energy entities, provides electricity to most households and businesses in Marin County, and in three nearby counties, as an alternative to electricity provided by Pacific Gas & Electric Company (PG&E). Under state law, customers are automatically signed up with MCE, unless they affirmatively take steps to “opt out” in favor of PG&E.

At the height of the electricity cost market in the fall of 2024, MCE entered into expensive contracts that eventually increased its energy expenses over the prior year by about \$200 million — more than 25 percent. This issue prompted the Civil Grand Jury to investigate MCE. We found a Board of Directors that rarely asserted its responsibility of governance, and management that appeared to be taking advantage of this situation. We also found that controls for contract approval and other internal processes were not being followed. The investigation concluded with a number of key findings, some of which we summarize here:

- (1) MCE’s Board of Directors has not taken a sufficiently active role in the important decisions affecting the agency — and has failed to systematically review its policies, performance, and future strategy.
- (2) By delegating to the CEO, the Board’s approval authority over hiring of MCE’s General Legal Counsel, the Board has lost access to adequate independent legal advice when it is needed.
- (3) The energy contracts at the heart of MCE’s business are complex — and Board members face a considerable challenge to understand the relationship between those contracts and the renewability of the electricity that MCE provides to its customers.
- (4) On multiple occasions, MCE management has been insufficiently transparent with its Board.

Our report offers recommendations addressing these and related findings. We briefly summarize some of our primary recommendations:

- (1) MCE’s Board should act as a *governing* board, by deepening its oversight, and exercising primary authority over matters such as energy procurement decisions, hiring, and budget plans.

(2) The Board should reinstate approval authority for hiring of both CEO and General Legal Counsel, and have approval authority for hiring of all other top-level management personnel.

(3) The Board should address its composition and effectiveness, and related issues in its planned “governance assessment” — a laudable ongoing Board-initiated project that is expected to be completed after publication of this Grand Jury report.

(4) The Board should review the value of certain costly contracts that, some knowledgeable critics assert, serve primarily to allow MCE to claim a higher renewable (i.e., “greener”) Power Content Label.

The Grand Jury applauds MCE for pioneering the Community Choice Aggregator (CCA) model, and for considerable success in advancing renewable energy. We acknowledge that management faces unusual challenges in working with a large Board composed of elected members, who often lack significant financial and energy experience. We also recognize that our recommendations in this report are broad and consequential. Yet we believe these significant actions and operating changes are necessary if the Board is to properly govern this more than \$840 million public organization (approaching the size of Marin County’s entire annual budget<sup>1</sup>) and position MCE for continued success. Without the proposed modifications to its current operating regulations and organizational documents, we are concerned the Board will not be able to provide needed oversight of MCE’s future performance.

## **BACKGROUND**

### **A Local Option for Electricity Service: “Community Choice Aggregation”**

In 2002 the California Legislature amended the Public Utilities Code<sup>2</sup> to provide for “Community Choice Aggregators” (CCAs) — allowing counties and cities to buy electricity and sell it to their residents and businesses. CCAs can negotiate electricity contracts with power providers that focus on “clean” energy sources. CCAs can then offer purchased power to local subscribers as an alternative to electricity provided by an “Investor-Owned Utility” (IOU) such as Pacific Gas & Electric (PG&E). Each CCA relies on its area IOU’s existing power lines, metering, and billing systems to deliver and charge for the electricity supplied by the CCA.<sup>3</sup> The same 2002 legislation made a local CCA the default electricity provider for all new customers within that CCA’s service area, but permits customers to “opt out,” and so retain electricity generated by the local IOU if the customer wishes.<sup>4</sup>

---

<sup>1</sup> See News Release, “Board Approves \$865.8 Million Budget for 2025–26,” *County of Marin website*, <https://www.marincounty.gov/news-releases/board-approves-8658-million-budget-2025-26>. All urls cited in this report are current as of May 15, 2026.

<sup>2</sup> Assembly Bill No. 117 (Sept. 24, 2002), amending Cal. Public Utilities Code, §§ 218.3, 366, 394, and 394.25; and adding §§ 331.1, 366.2, and 381.1. See generally J.R. DeShazo et al., “The Promises and Challenges of Community Choice Aggregation in California” (2017) UCLA Luskin School of Public Affairs, [https://innovation.luskin.ucla.edu/wp-content/uploads/2019/03/The\\_Promises\\_and\\_Challenges\\_of\\_Community\\_Choice\\_Aggregation\\_in\\_CA.pdf](https://innovation.luskin.ucla.edu/wp-content/uploads/2019/03/The_Promises_and_Challenges_of_Community_Choice_Aggregation_in_CA.pdf) (describing the nature, emergence, and benefits of CCAs).

<sup>3</sup> Each IOU also continues to provide all natural gas service.

<sup>4</sup> Cal. Public Utilities Code, § 366.2, subd. (a), (2) & (3).

## Marin Clean Energy (MCE)

Marin Clean Energy (MCE) was formed under a Joint Powers Agreement in 2008<sup>5</sup> as a not-for-profit entity, and became California's first CCA in 2010.<sup>6</sup> Its vision then, as now, has been to “lead California to an equitable, clean, affordable, and reliable energy economy by serving as a model for community-based renewable energy, energy efficiency, and cutting-edge, clean-tech products and programs.”<sup>7</sup> MCE began with a small staff, a management team that included co-founder and current Chief Executive Officer (CEO) Dawn Weisz, and an eight-member governing Board of Directors composed of one member from each town or city council, elected in each of Marin's originally participating seven towns and cities, and one Marin County Supervisor.<sup>8</sup> Today there are 25 CCAs in California, serving more than 15 million customers in over 200 California cities and counties,<sup>9</sup> subject to some regulation by the state.<sup>10</sup> Other notable CCAs include AVA Community Energy (serving Alameda County, and some cities in the Central Valley),<sup>11</sup> Silicon Valley Clean Energy (serving 13 South Bay communities),<sup>12</sup> and Peninsula Clean Energy (serving 22 San Mateo County communities and the City of Los Banos).<sup>13</sup>

In the years since its formation MCE has grown to include all eleven Marin cities and towns, the unincorporated parts of Marin County, and the counties of Contra Costa, Napa, and Solano, as well as numerous cities within those counties.<sup>14</sup> MCE currently provides electricity to 38

---

<sup>5</sup> MCE, “Formation Documents” / “Joint Powers Agreement (pdf) — Updated April 17, 2025” <https://mcecleanenergy.org/key-documents/>. The current parties to the JPA are described *post*, fn. 14.

<sup>6</sup> MCE, “Formation Documents” / “MCE Implementation Plan (pdf) — Revised January 2013” [https://mcecleanenergy.org/wp-content/uploads/2019/12/Marin-Energy-Authority-Community-Choice-Aggregation-Implementation-Plan-And-Statement-of-Intent-Revised\\_012213.pdf](https://mcecleanenergy.org/wp-content/uploads/2019/12/Marin-Energy-Authority-Community-Choice-Aggregation-Implementation-Plan-And-Statement-of-Intent-Revised_012213.pdf).

<sup>7</sup> MCE, “Our Purpose” <https://mcecleanenergy.org/about/>.

<sup>8</sup> MCE, “Celebrating 15 Years of Clean Energy, Climate Action, and Community Power, Impact Report 2025,” [https://mcecleanenergy.org/wp-content/uploads/2025/12/2025\\_MCE\\_Impact-Report\\_111325-1.pdf](https://mcecleanenergy.org/wp-content/uploads/2025/12/2025_MCE_Impact-Report_111325-1.pdf) p. 6.

<sup>9</sup> California Community Choice Association (CalCCA), <https://cal-cca.org/about/>; MCE, “What is Community Choice Aggregation?” <https://mcecleanenergy.org/faq/>.

<sup>10</sup> See, for example, hearings held by the Cal. Senate Committee on Energy, Utilities and Communications (Aug. 23, 2017) “The Changing Electricity Landscape: The Growth of Community Choice Aggregators (CCAs),” <https://www.senate.ca.gov/media/senate-energy-utilities-communications-committee-20170823?format=video>; Cal. Senate Committee on Energy, Utilities and Communications (Mar. 19, 2019) “The Changing Electricity Landscape: The Need for a New Regulatory Approach?” <https://www.senate.ca.gov/media/senate-energy-utilities-communications-committee-20190319?format=video>.

See also, e.g., Senate Bill. No. 155 (Oct. 2, 2019), amending Cal. Pub. Utilities Code, §§ 399.13, 399.16, 454.5 & 454.52 (strengthening oversight of CCAs by the California Public Utilities Commission; requiring CCAs and other load-serving entities to strictly adhere to California renewable energy and grid adequacy requirements).

<sup>11</sup> Ava Community Energy, <https://avaenergy.org/>.

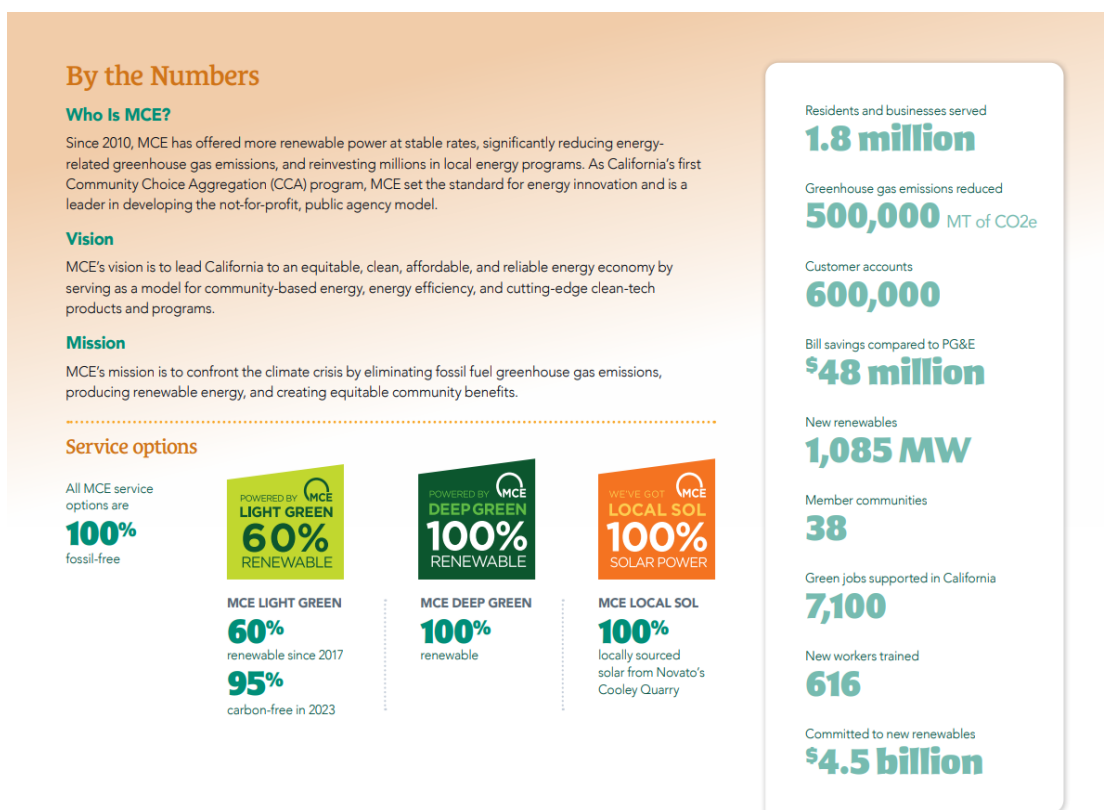
<sup>12</sup> Silicon Valley Clean Energy, <https://svcleanenergy.org/>.

<sup>13</sup> Peninsula Clean Energy, <https://peninsulacleanenergy.com>.

<sup>14</sup> MCE, “Celebrating 15 Years of Clean Energy, Climate Action, and Community Power, Impact Report 2025,” [https://mcecleanenergy.org/wp-content/uploads/2025/12/2025\\_MCE\\_Impact-Report\\_111325-1.pdf](https://mcecleanenergy.org/wp-content/uploads/2025/12/2025_MCE_Impact-Report_111325-1.pdf), at pdf pp. 7–11. As of 2026, there are 38 parties to the Joint Powers Agreement (“Marin Energy Authority Joint Powers Agreement,” [https://mcecleanenergy.org/wp-content/uploads/2025/10/MCE\\_JPA-Agreement\\_38\\_Communities-Updated\\_4.17.25.pdf](https://mcecleanenergy.org/wp-content/uploads/2025/10/MCE_JPA-Agreement_38_Communities-Updated_4.17.25.pdf)).

communities, with 34 elected local government officials serving on its Board of Directors.<sup>15</sup> Reflecting this increased coverage, Marin Clean Energy now simply refers to itself as “MCE.”

The Grand Jury supports MCE’s mission and wishes for it to succeed. MCE’s contribution to clean energy, climate action, and community power is substantial and well documented. According to MCE’s *2025 Impact Report*, over the past 15 years MCE’s clean energy investments have resulted in 1085 MW of new renewable energy capacity built or under development, and a reduction in greenhouse gas emissions of 500,000 mega-tons of CO<sub>2</sub>e. To support its customers financially and ensure that all customers can benefit from a green economy, MCE has provided \$80 million in bill savings and discount programs, credited \$12 million to low-income customers through the MCE Cares Credit, issued \$19 million in customer rebates for EVs and EV charging, and distributed \$57 million for energy efficiency upgrades. To prioritize underserved populations, MCE has awarded \$100,000 in community partnership support to help residents and businesses become more climate-ready; supported more than 80 underserved youth in gaining hands-on training in green construction, electrification and energy efficiency through its NextGen Trades Academy; and empowered underserved communities in Concord, Richmond, San Rafael, and Vallejo to help shape the future of transportation.<sup>16</sup>



Caption: MCE Factsheet. Source: MCE Impact Report 2025, [https://mcecleanenergy.org/wp-content/uploads/2025/12/2025\\_MCE\\_Impact-Report\\_111325-1.pdf](https://mcecleanenergy.org/wp-content/uploads/2025/12/2025_MCE_Impact-Report_111325-1.pdf), at pdf p. 4.

<sup>15</sup> MCE, “Board of Directors,” <https://mcecleanenergy.org/board-of-directors/>. Consistent with MCE’s organizational documents, the 34-member Board consists of representatives from the 38 communities, with one Board member representing Napa county plus four cities within that county.

<sup>16</sup> MCE, “Celebrating 15 Years of Clean Energy, Climate Action, and Community Power, Impact Report 2025,” [https://mcecleanenergy.org/wp-content/uploads/2025/12/2025\\_MCE\\_Impact-Report\\_111325-1.pdf](https://mcecleanenergy.org/wp-content/uploads/2025/12/2025_MCE_Impact-Report_111325-1.pdf) at pdf pp. 4–15.

MCE’s annual revenue is currently more than \$840 million.<sup>17</sup> It provides electricity for more than 600,000 customer accounts and 1.8 million residents and businesses in the four-member counties.<sup>18</sup> MCE currently has a staff of more than 120, and a management team of three.<sup>19</sup> The staff is diverse and the agency looks to be welcoming of all backgrounds. About sixty percent of the employees are women.<sup>20</sup> By all accounts, the agency appears to be a top place to work, and a place where staff can succeed.<sup>21</sup>

MCE explains that it purchases electricity “mostly ... from nonpolluting, renewable sources such as solar, wind, geothermal, hydroelectric, and bioenergy. The projects that produce our electricity are located in California, the Pacific Northwest, and Colorado. The exact proportion of each varies with time, based on demand and availability. For example, MCE may use a higher proportion of hydroelectric energy during the spring and summer months when winter runoff generates more power at affordable prices.”<sup>22</sup> MCE procures electricity by entering into “short- and long-term contracts with a variety of power suppliers to meet the energy needs of our customers.”<sup>23</sup>

MCE offers two main electricity supply programs. One is called “Light Green,” which aims to provide electricity that is sourced at least 60 percent from “eligible renewables” such as solar and wind (along with biomass & biowaste, geothermal, and “eligible hydroelectric”). The other is called “Deep Green,” which is advertised as electricity derived entirely from solar and wind.<sup>24</sup> In 2024 MCE exceeded its Light Green 60 percent goal, supplying to its customers 69 percent renewable electricity under that program.<sup>25</sup>

Ultimately, MCE is an energy trader, purchasing and selling electricity. At one end, MCE purchases power in an energy market in competition with other CCAs and other energy traders. But unlike most energy traders, MCE does not both buy and sell in the same energy market. The endpoint for MCE electricity is with rate paying customers, as MCE sells its electricity in competition with PG&E. In FY 2024–25 MCE spent nearly \$200 million more than the previous

---

<sup>17</sup> *Id.* at pdf p. 5.

<sup>18</sup> MCE, “What is MCE?” <https://mcecleanenergy.org/faq/>.

<sup>19</sup> MCE, “Meet our Team,” <https://mcecleanenergy.org/our-team/>. MCE lists its three executives as the Chief Executive Officer, Chief Operating Officer, and Chief Customer Officer — excluding its Chief Financial Officer from the Executive Leadership team.

<sup>20</sup> *Ibid.*

<sup>21</sup> “The San Francisco Bay Area Top Workplaces 2025,” <https://topworkplaces.com/award/bayarea/2025/35-149/> (listing MCE as No. 12 of companies with 35–149 employees).

<sup>22</sup> MCE, “Where does MCE get its electricity?” <https://mcecleanenergy.org/faq/>.

<sup>23</sup> MCE, “How does MCE procure power?” <https://mcecleanenergy.org/faq/>.

<sup>24</sup> MCE, “Compare Rates and Choose What Works Best for You,” <https://mcecleanenergy.org/compare-rates-and-options/> (highlighting the “renewable” percentages for “Light Green” and “Deep Green,” respectively). As explained in an MCE chart regarding its “2024 Power Content Mix,” the legal term, “eligible renewables” includes the sources listed in the text above, but excludes electricity sourced from coal, “large hydroelectric,” natural gas, and nuclear plants. The same chart characterizes PG&E’s electricity as sourced 63 percent from “nuclear” (and 12 percent from “large hydroelectric” — yet none from coal), which, in combination with other lesser sources, results in PG&E’s “eligible renewables” figure of only 23 percent. MCE, “Where Your Energy Comes From” / “Ensuring Transparency” <https://mcecleanenergy.org/energy-sources/>.

<sup>25</sup> MCE, “Compare Rates and Choose What Works Best for You,” <https://mcecleanenergy.org/compare-rates-and-options/>.

year on one-to-five-year energy contracts, while prices were at a peak. In light of these high-cost purchases, MCE must include these high costs in its rates, until these expensive power contracts are complete. In other words, MCE’s rates to customers are higher than they could have been without its expensive purchases, and it is less able to compete with PG&E because of those purchases.

Why did MCE purchase these contracts that created a \$200 million year-over-year variance, while other CCAs in the same market did not make similar purchases leading to similar variances? The answer to this question requires a “deep dive” into how MCE operates, and examination of details about how energy is purchased and delivered. But even as we examined power purchases, we found irregularities concerning other operational details. Our investigation identified serious concerns regarding governance, oversight, transparency, and adherence to internal controls.

## **Public-Interest Watchdog Critiques of MCE — Followed by a Series of Articles Published in The *Marin Independent Journal***

Beginning in the Fall of 2025, several state and local public-interest watchdog groups — including Clean Coalition, Marin Conservation League, and Marin’s Coalition of Sensible Taxpayers — submitted public comments to MCE, verbally at Board meetings and in writing, critical of MCE’s recent financial performance and governance.<sup>26</sup> We will address these critiques, and public comments by others, in the “Discussion” section of this report below.

Subsequently the *Marin Independent Journal* published a series of four articles examining MCE in late October 2025. The initial article described the efforts of some MCE Board members to encourage more transparency and accountability.<sup>27</sup> It reported that although most of MCE’s Board members “had confidence in management ... for the second year in a row, MCE’s expenses differed from its budget by more than \$100 million, its auditors reported. Total expenses increased by \$200 million from the year before — creating an operating loss.”<sup>28</sup>

The final series article observed that several former MCE directors had commented that the Board’s large size “is not conducive to detailed discussion.”<sup>29</sup> The article quoted a former Board member — an accountant who was on the Board during its first decade, when there were only 12 members: “ ‘But even then, I wasn’t the only one who felt like the Board ... had absolutely no experience in the utility business, which is a complicated business, and we had no choice but to rely on what management tells us.’ ”<sup>30</sup> That former member concluded: “ ‘There were certain

---

<sup>26</sup> Beginning in 2025, such public comments have been posted on MCE’s website on a page titled “Written Public Comment Submissions,” <https://mcecleanenergy.org/board-meetings/#public-comments>.

<sup>27</sup> Steven Rosenfeld, “Friction at MCE, Part 1: Calls for financial reform, transparency” (Oct. 25, 2025) *Marin Independent Journal*, <https://www.marinij.com/2025/10/25/friction-at-mce-part-1-calls-for-financial-reform-transparency/>.

<sup>28</sup> *Ibid.*

<sup>29</sup> Steven Rosenfeld, “Friction at MCE, Part 4: Management, allies block governance reforms” (Oct. 28, 2025) *Marin Independent Journal*, <https://www.marinij.com/2025/10/28/friction-at-mce-part-4-management-allies-block-governance-reforms/>.

<sup>30</sup> *Ibid.*

things we could comment on, *but the basic business was just oblivious to us.... There was a strong feeling that the Board should hire some outside advisers who reported to the Board and not to management.*”<sup>31</sup>

In the ensuing months periodic follow-up articles have been published in the *Marin Independent Journal*, reporting on MCE Board and committee meetings.<sup>32</sup> Various interested persons and groups have continued to submit critical and constructive comments in the form of letters and memoranda, which MCE has continued to post on its website.<sup>33</sup> In late 2025, MCE’s Board voted to create a standing finance committee.<sup>34</sup> It also voted in early 2026 to undertake a “governance assessment,” the scope of which will be defined after the Board receives and evaluates responses to its request for proposals, which were due by the end of April, 2026.<sup>35</sup> Clearly, this governance assessment project will not commence until well after June, 2026 — subsequent to the end of the current Marin County Civil Grand Jury term.

## **APPROACH**

We reviewed material posted on MCE’s website (<https://mcecleanenergy.org/>), including hundreds of pages of meeting packets, dozens of hours of Board of Directors and related committee meeting videos, along with financial, formation, and policy documents, and written public comments. We also reviewed the websites of other peer CCAs, and other sources and professional articles concerning CCAs.

We also researched California legislation creating and governing CCAs, and related legal constraints on public entities by the Brown Act, California’s open public meetings law.<sup>36</sup>

We conducted approximately 30 hours of interviews with 14 persons including: (1) members of MCE’s Board of Directors; (2) representatives of watchdog entities who have commented on MCE’s operations; (3) members of the public who have submitted comments to MCE; and (4) representatives of MCE’s management.

---

<sup>31</sup> *Ibid.*, italics added.

<sup>32</sup> Responding to the series of *Marin IJ* articles, MCE posted a document in November 2025 that purported to clarify and correct asserted *IJ* “misinformation”: <https://mcecleanenergy.org/fact-or-fiction-on-the-friction-at-mce/>. (Found by Google search.) Although MCE has promoted complimentary media coverage on its “In The News” website section, and directly linked to such articles, MCE has posted only responses — but with no links — to *Marin IJ* articles.

<sup>33</sup> MCE, “Written Public Comment Submissions,” <https://mcecleanenergy.org/board-meetings/#public-comments>.

<sup>34</sup> MCE, “Meeting Archive” / “Board of Directors November 20, 2025 Minutes,” [https://mcecleanenergy.org/wp-content/uploads/2026/01/MCE-Board-Meeting-Minutes-November\\_2025.pdf](https://mcecleanenergy.org/wp-content/uploads/2026/01/MCE-Board-Meeting-Minutes-November_2025.pdf), item 8.

<sup>35</sup> MCE, “Meeting Archive” / “Board of Directors January 15, 2026 Minutes,” [https://mcecleanenergy.org/wp-content/uploads/2026/03/MCE-Board-Meeting-Minutes-January\\_2026.pdf](https://mcecleanenergy.org/wp-content/uploads/2026/03/MCE-Board-Meeting-Minutes-January_2026.pdf), at pdf p. 4 (item 8); MCE, “Open Solicitations” / “MCE Solicitations” / “Governance Assessment Services RFP,” <https://mcecleanenergy.org/wp-content/uploads/2026/03/2026-01-RFP-for-Governance-Assessment-Services.pdf> (“MCE ... seeks a qualified organization or individual(s) to assess MCE’s governance structure and practices and develop recommendations based upon the findings”). *Id.* at pdf p. 1.

<sup>36</sup> Cal. Gov. Code, §§ 54950–54963.

In our investigation of specific missteps that have recently come to light at MCE, we realized problems arose from broader issues about organizational governance, and operational transparency. We subsequently focused our inquiry on underlying issues that, we believe, led to those missteps.

Throughout our investigation we continued to monitor and review postings (meeting packets and videos; public comment documents, etc.) published on MCE’s website, and those of some comparable peer CCAs. We also continued to monitor ongoing articles, editorials, and letters to the editor appearing in the *Marin Independent Journal* and other publications. However, because of the timing of this jury’s one-year term, and necessary review of this report prior to publication, we ended our investigation on May 15, 2026.

## **DISCUSSION**

### **1. MCE Board Members Disagree About the Scope of Their Governance Role**

Soon after we initiated our investigation, we found a basic disagreement amongst the Board members about their Board responsibilities. Although some members have been active in requesting information from management and offering analysis and strategy suggestions, others felt this was beyond their scope and preferred to defer to management. We reviewed MCE’s foundational documents to determine what was originally anticipated for these responsibilities.

The function and authority of MCE’s Board of Directors is described in its governing documents. MCE’s Joint Powers Agreement (JPA) provides: “The governing body of the Authority shall be a Board of Directors (‘Board’) consisting of one director for each Party [county and municipalities] that “meets at regular intervals to provide the overall management and guidance for MCE.”<sup>37</sup> Consistent with the JPA, MCE’s Revised Community Choice Aggregation Implementation Plan and Statement of Intent (Plan) specifies that the Board’s primary duties are to “establish program policies, set rates and provide policy direction to the Executive Officer, who has general responsibility for program operations, consistent with policies established by the Board.”<sup>38</sup> In this report, we refer to the Board’s roles and duties set forth in these foundational documents, when exercised, as “governance.” Governance defines the structural framework — rules, practices, and processes — that enables effective corporate oversight and ensures transparency. Governance also determines how a board of directors supervises management, mitigates risks, and discloses information to stakeholders, fostering trust and accountability.<sup>39</sup>

---

<sup>37</sup> MCE, “Formation Documents” / “Joint Powers Agreement (pdf) — Updated April 17, 2025” <https://mcecleanenergy.org/key-documents/>, art. 4, § 4.1.

<sup>38</sup> MCE, “Formation Documents” / “MCE Implementation Plan (pdf) — Revised January 2013” [https://mcecleanenergy.org/wp-content/uploads/2019/12/Marin-Energy-Authority-Community-Choice-Aggregation-Implementation-Plan-And-Statement-of-Intent-Revised\\_012213.pdf](https://mcecleanenergy.org/wp-content/uploads/2019/12/Marin-Energy-Authority-Community-Choice-Aggregation-Implementation-Plan-And-Statement-of-Intent-Revised_012213.pdf), at pdf p. 11 (“Organizational Overview”).

<sup>39</sup> See, e.g., Continuing Education of the Bar (CEB) (Feb. 21, 2025), <https://ceb.com/blog/corporate-governance-compliance-in-house-governance-strategies/>.

In light of these foundational documents, we conclude that the MCE Board is expected to exercise an active governance role.

Our interviews with Board members, together with our review of relevant MCE documents and videos of Board and committee meetings reveals the following:

- Some Board members, stressing their understanding that governing directors owe a fiduciary duty to their constituents and MCE ratepayers, have sought financial and energy market-related information in order to better understand MCE's operations. As detailed later in this report, these Board members have attempted to understand why MCE's energy contracts entered into in the fall of 2024 greatly exceeded, by up to approximately \$200 million, those of the prior year. They also seek to know the extent of any problem, and how it or similar variances might be avoided in the future. These members also have advocated for internal governance changes to help Board members better monitor financial matters to set policy regarding energy procurement and related matters.
- Other Board members have questioned the need for enhanced financial oversight, and the necessity of creating any new internal committee charged with that task. Some of these members have stressed their general respect for, and trust in, MCE's experienced management and professional staff. Others in this group have asserted that those who seek more specific and detailed financial information and related internal governance reforms are from small jurisdictions — and hence have too much time on their hands compared with members who serve larger populations. And, as detailed later in this report, some have accused fellow Board members of acting in ways that challenge the Board's decorum, and impose unreasonably on MCE's staff. For many of these Board members, those who seek further details about financial transactions and invoke "fiduciary duty" can be, and have been, viewed as impairing MCE's pre-existing positive "culture."
- MCE management weighs in on the side of less assertive Board governance, and has acted in a variety of ways consistent with that end. Although MCE explains that it is "governed by [its] Board of Directors" whose "monthly meetings ... are always open to the public," thus ensuring "public transparency and accountability,"<sup>40</sup> we have found that this expressed dedication to Board governance is often illusory. We highlight here one example related to MCE's significant efforts to "onboard" new members.

As recently as early 2025, MCE's management emphasized a limited scope for Board oversight and investigative roles in its Board training materials, while prioritizing other functions, such as promotion of MCE generally. One such piece, an official MCE Board member orientation slide titled "MCE Board, What is the Assignment?" characterized the role of each new Board member, explaining the "Role of [the] Board of Directors" is to "share," "inform," "advise," and "advocate." Significantly, this orientation material mentioned nothing about what one might expect to see as a primary role of each Board member: *Governance*.

Only recently did MCE revise this Board member orientation slide to add the word "Govern" to the list of each member's role.<sup>41</sup> Yet even that change is circumscribed: The revised slide (shown

---

<sup>40</sup> MCE, "MCE Governance & Finance FAQ" / "Who governs MCE?" <https://mcecleanenergy.org/faq/>.

<sup>41</sup> MCE, "Meeting Archive" / "Special Meeting, MCE Board Orientation" (Feb. 20, 2025), <https://mcecleanenergy.org/wp-content/uploads/2025/02/MCE-Board-Orientation-Meeting->

below) suggests that the primary “focus” of each Board member should be on “the connection” between MCE and that member’s jurisdiction. Certainly, this connection is important, and consistent with MCE’s corporate culture. But this focus diminishes Board governance as a stated priority, on par with “spread the word,” and “offer your perspective.” Moreover, the newer “Assignment” orientation slide imposes a narrow scope to the concept of governance, limiting it to *approving* MCE’s “budget, rates and policies.”

## MCE Board: What is the Assignment?

We know Board members are busy with many work and community commitments. Fortunately, MCE can employ over 100 professional staff with specialized expertise and full-time engagement on MCE operations, freeing up Board members to focus on the connection between MCE and member communities.

### The MCE Board Assignment is to:

- **Share:** Spread the word about MCE programs, rebates, successes and community-based work
- **Inform:** Notify MCE about key initiatives and events happening in your community with an energy nexus
- **Govern:** Approve MCE’s budget, rates, and policies.
- **Advise:** Offer your perspective on community-based policy decisions
- **Advocate:** Be a spokesperson and advocate for MCE with external parties and key stakeholders

Caption: MCE Board orientation “assignment” description in effect beginning February 2025 — with “Govern” added.  
Source: MCE, [https://mcecleanenergy.org/wp-content/uploads/2025/02/MCE-Board-Orientation-Meeting-Packet\\_February\\_20\\_2025.pdf](https://mcecleanenergy.org/wp-content/uploads/2025/02/MCE-Board-Orientation-Meeting-Packet_February_20_2025.pdf), at pdf p.10.

MCE’s current orientation materials also include a slide that makes no reference to *any* governing role. It acknowledges that Board members have other responsibilities, and emphasizes that they should “rely on and trust” MCE’s staff.<sup>42</sup> The same new Board orientation materials also describe the Board’s three standing committees — Executive, Finance, and Technical. The materials state, regarding each, that it “hears and approves” matters within its jurisdiction — but the materials do not specifically mention any role regarding governance.<sup>43</sup>

***The Grand Jury’s Conclusions About Board Member and Management Views of Governance:***  
*The Grand Jury concludes that active governance is clearly anticipated in MCE’s foundational documents, and is necessary for MCE to meet the requirements of those documents. And yet MCE’s Board of Directors is divided about how actively it should govern. This disagreement is compounded because MCE’s management, and some Board members, appear to promote an agency culture that prioritizes deference to the financial and policy preferences of management. As a result, despite having grown to an \$840 million company, decisions affecting MCE’s operation and strategy are currently largely driven by a few members of management.*

---

[Packet February 20 2025.pdf](https://mcecleanenergy.org/wp-content/uploads/2025/02/MCE-Board-Orientation-Meeting-Packet_February_20_2025.pdf), at pdf p. 10. We acknowledge here that “approve” is certainly one act in governance. However, standing alone and in this context, one reasonable (and likely, in our view) implication to be taken from this piece is that the Board may rely on management’s recommendations, without the need for independent “oversight,” or “investigation,” or “evaluation.”

<sup>42</sup> MCE, “Meeting Archive” / “MCE Board Orientation” (Mar. 11, 2026), <https://mcecleanenergy.org/wp-content/uploads/2026/03/MCE-Board-Orientation-Meeting-Packet-March-2026.pdf>, pdf p. 15 (“As elected representatives of their communities, Board members are busy with many work and community commitments. MCE employs professional staff with specialized expertise and full-time engagement on MCE operations that Board members can rely on and trust to focus on MCE’s continued success with their communities.”).

<sup>43</sup> *Id.* at pdf pp. 16–18.

## 2. MCE's Board Has Ceded its Authority In Numerous Circumstances

Over the past years MCE's Board of Directors have passed various resolutions, and amendments to its Operating Rules and Regulations, reflecting changes that have ceded Board authority in various key matters. These changes, usually in the form of "delegations" to the CEO, have involved the Board's authority over purchasing;<sup>44</sup> compensation, hiring and firing;<sup>45</sup> agenda setting;<sup>46</sup> approval of the hiring of General Counsel;<sup>47</sup> and most significantly, energy procurement — MCE's main function.<sup>48</sup>

---

<sup>44</sup> MCE, "Key Documents" / "Resolutions and Ordinances" / "Resolution 2018-04," [https://mcecleanenergy.org/wp-content/uploads/2018/04/Resolution-2018-04\\_Designating-the-CEO-as-Agent-Pursuant-to-Code-25500.pdf](https://mcecleanenergy.org/wp-content/uploads/2018/04/Resolution-2018-04_Designating-the-CEO-as-Agent-Pursuant-to-Code-25500.pdf) (see related chart describing the specific ceding of Board authority).

<sup>45</sup> MCE, "Key Documents" / "Resolutions and Ordinances" / "Resolution 2018-09," <https://mcecleanenergy.org/wp-content/uploads/2018/10/Resolution-2018-09-Delegating-Auth.-of-Setting-Comp.-Tenure-Appt.-and-Cond.-of-Emplymnt-to-ExCom-and-CEO-1.pdf> (see related chart describing the specific ceding of Board authority).

<sup>46</sup> MCE, "Formation Documents" / "Amended Operating Rules [and] Regulations (pdf) — August 17, 2023," <https://mcecleanenergy.org/wp-content/uploads/2023/08/Amended-MCE-Operating-Rules-Regulatoins-Final-8.21.23.pdf>. The prior version of the Operating Rules and Regulations (undated, posted at <https://mcecleanenergy.org/wp-content/uploads/operating-rules-regulations-asammended.pdf>) provided, in article IV, § 1.a, that the Board Chair would "supervise the preparation of the business agenda." The revised version of article IV, § 1.a, reduces that role, providing that the Board Chair simply "review the business agenda."

<sup>47</sup> MCE, "Key Documents" / "Amended Operating Rules [and] Regulations (pdf) — August 17, 2023," <https://mcecleanenergy.org/wp-content/uploads/2023/08/Amended-MCE-Operating-Rules-Regulatoins-Final-8.21.23.pdf>. The prior version of the Operating Rules and Regulations (undated, posted at <https://mcecleanenergy.org/wp-content/uploads/operating-rules-regulations-asammended.pdf>) listed, in article VII, § 2, as a matter that "shall be approved only by a majority vote of the full membership of the Board," the following: "b. The hiring of an Executive Director and General Counsel." The revised version of that provision (now renumbered article "VI," § 2.b.), removes the prior reference to General Counsel, and lists only "The hiring of a Chief Executive Director." MCE, "Formation Documents" / "Amended Operating Rules [and] Regulations (pdf) — August 17, 2023," <https://mcecleanenergy.org/wp-content/uploads/2023/08/Amended-MCE-Operating-Rules-Regulatoins-Final-8.21.23.pdf>.

<sup>48</sup> MCE, "Key Documents" / "Resolutions and Ordinances" / "Resolution 2020-04," <https://mcecleanenergy.org/wp-content/uploads/2020/11/Resolution-2020-04-Delegating-Energy-Procurement.DOCX.pdf> (see related chart describing the specific ceding of Board authority). The language of Resolution 2020-04, delegating purchasing authority, traces back through Resolution 2018-03 ([https://mcecleanenergy.org/wp-content/uploads/2018/04/Resolution2018-03\\_Rescinding-Reso-No.-2017-02-and-Delegating-Energy-Procurement-Auth.pdf](https://mcecleanenergy.org/wp-content/uploads/2018/04/Resolution2018-03_Rescinding-Reso-No.-2017-02-and-Delegating-Energy-Procurement-Auth.pdf)) to Resolution 2017-02 ([https://mcecleanenergy.org/wp-content/uploads/2017/02/Resolution-2017\\_02\\_MCE-Delegating-Contracting-Authorities.pdf](https://mcecleanenergy.org/wp-content/uploads/2017/02/Resolution-2017_02_MCE-Delegating-Contracting-Authorities.pdf)).

Summary of actions taken in recent years to reduce MCE Board of Directors' authority		
Year	Subject	Action
2017–2020	Energy Procurement Authority	Expanded the CEO's already existing authority (to unilaterally approve and execute energy contracts for terms of less than or equal to one year) to also approve and execute energy contracts of from one-to-five years with consultation and signature of Technical Committee Chair
2018	Purchasing Authority	Allowed the CEO to approve transactions under \$100,000 (and required signature by the Executive Committee Board Chair for expenditures above that amount)
2018	Compensation, Hiring, and Firing	Granted the CEO broad authority to hire, fire, and set compensation for all other staff within the Board-approved budget, but requires "consultation with the Executive Committee"
2023	Agenda Setting	Revised the role of the Board Chair from "supervise the preparation of the business agenda" to simply "review the business agenda"
2023	Hiring of General Counsel	Modified the authority of the Board from approval of "The hiring of an Executive Director and General Counsel" to simply "The hiring of a Chief Executive Director"

Caption: Recent actions ceding MCE Board's authority to the CEO.

Source: MCE website "Key Documents," <https://mcecleanenergy.org/key-documents/>.

In this section, we will focus on the ceding of energy procurement authority, as this has directly affected customer rates. The issue regarding hiring of General Counsel is also touched on below.

- **Regarding energy procurement:** The Board has, since at least 2017, delegated authority to the CEO to enter into energy procurement contracts as follows:
  - The CEO may *unilaterally* enter into short term (up to 12 months) energy contracts.
  - The CEO may "*jointly,*" with the "*Technical Committee Chair ... after consultation with a Committee of the Board, ... approve and execute contracts ... for terms of less than or equal to five years.*" The most recent MCE policy reflecting these internal controls is Resolution 2020-04.<sup>49</sup>

Even with this expanded authority, as explained in section 4 of this report, MCE management has routinely violated the internal control rules of Resolution 2020-04 italicized above, by (1) executing contracts with Board members other than the Technical Committee Chair, and (2) without the required prior "consultation" with a committee.

In response to public criticism about these violations of its own longstanding internal controls, MCE management in early 2026 proposed, and the Board approved, Resolution 2026-01. This new procurement resolution created an interim committee to consult about and approve energy contacts, management asserted, "for the purpose of advising on and facilitating MCE's delegations, as set forth in Resolution 2020-04."<sup>50</sup>

<sup>49</sup> *Ibid.*

<sup>50</sup> MCE, "Key Documents" / "Resolutions and Ordinances" / "Resolution 2026-01," <https://mcecleanenergy.org/wp-content/uploads/2026/03/2026-01-re-Interim-Advisory-Committee.pdf>. The resolution stated: "Consultation with the [interim committee] constitutes 'consultation with the appropriate Committee of the Board of Directors' within the meaning of the delegation regarding one- to -five-year energy procurements under Resolution 2020-04, with respect to procurements executed after the date of this Resolution." *Id.* at pdf p. 2. The resolution also provided that the interim committee "will sunset when the Board completes its governance assessment, revisits and/or clarifies the

Less than one month later, MCE management proposed and recommended the Board approve “Resolution 2026-02,”<sup>51</sup> seeking to rescind both Resolutions 2020-04 and 2026-01. Resolution 2026-02 would, in essence, endorse the past internal control violations, and at the same time, (1) *eliminate* any consultation with a Board committee, and (2) *delegate even more authority* to the CEO to enter into short and medium term contracts — including those up to 10 years (and of any value) — as well as all contracts of *any duration*, so long as the “notional value” is no greater than the huge sum of \$65 million.<sup>52</sup> Specifically:

- Instead of prior “consultation” with a “Board committee,” the proposed resolution would require only that the Technical Committee Chair (or in that person’s absence, the Committee Vice Chair, or Board Chair, or Vice Chair of the Board) “must have met with MCE Staff at least once within the prior 12 months to review MCE’s open positions and contracting needs.”<sup>53</sup>
- The proposed resolution also would further expand the CEO’s *unilateral* authority far beyond energy contracts of up to 12 months, instead granting new power to “approve and execute” energy contracts “*of any amount*, with delivery periods having a cumulative total of less than or equal to 60 months.”<sup>54</sup> And this would apply to contracts “*of any term*, with a notional value less than or equal to \$65 million.”<sup>55</sup> In other words, with this additional delegation, the CEO would be given unilateral authority over essentially all of MCE’s energy contracts.

When proposed Resolution 2026-02 was submitted to the Board for approval at its April meeting, many public commenters — including the Sierra Club, the Marin Conservation League, and Marin’s Coalition for Sensible Taxpayers — objected, in writing and orally, to the proposed dramatically increased delegation of authority to the CEO.<sup>56</sup> In addition, some Board members spoke up, balking at perceived internal inconsistencies in the

---

delegations set forth in Resolution 2020-04 or its successor, or modifies this Resolution, whichever comes first.”  
*Ibid.*

<sup>51</sup> MCE, “Meeting Archive”/ “Board of Directors April 16, 2026 Meeting Packet,” <https://mcecleanenergy.org/wp-content/uploads/2026/04/MCE-Board-Meeting-Packet-April-2026.pdf>, at pdf p. 88.

<sup>52</sup> *Id.* at pdf at pp. 99–101 (reline comparing proposed changes with Resolution 2020-04).

<sup>53</sup> *Id.* at pdf at p. 100.

<sup>54</sup> *Id.* at pdf pp. 100–101.

<sup>55</sup> *Id.* at pdf p. 101.

<sup>56</sup> MCE, “Meeting Archive”/ “Board of Directors April 16, 2026 Video,” <https://www.youtube.com/watch?v=j3Juv1s4cVY>, at 1:33:50–1:54:20. Regarding the written comments, see, e.g., MCE, “Written Public Comment Submissions” / “Public Comment Letter from Lucy Dilworth — Distributed 4.15.26,” <https://mcecleanenergy.org/wp-content/uploads/2026/04/Public-Comment-Letter-Lucy-Dilworth-4.14.26.pdf> (CST); *id.*, “Public Comment Letter from Julia Dowell — Distributed 4.15.26,” <https://mcecleanenergy.org/wp-content/uploads/2026/04/Public-Comment-Letter-Julia-Dowell-4.15.26.pdf> (Sierra Club); “Public Comment Letter from Alicia Minyen — Distributed 4.15.26,” <https://mcecleanenergy.org/wp-content/uploads/2026/04/Public-Comment-Letter-Alicia-Minyen-4.16.16.pdf>; “Public Comment Letter from Michael Kamerick — Distributed 4.16.26,” <https://mcecleanenergy.org/wp-content/uploads/2026/04/Public-Comment-Letter-Michael-Kamerick.pdf> (Sierra Club); “Public Comment Letter from Nick Pappas — Distributed 4.17.26,” <https://mcecleanenergy.org/wp-content/uploads/2026/04/Public-Comment-Letter-Nick-Pappas-4.17.26.pdf>; “Public Comment from Doug Kelly — Distributed 4.17.26,” <https://mcecleanenergy.org/wp-content/uploads/2026/04/Public-Comment-Letter-Doug-Kelly-4.16.16.pdf> (CST); “Public Comment from Mary Fitzpatrick — Distributed 4.21.26,” <https://mcecleanenergy.org/wp-content/uploads/2026/04/Public-Comment-Letter-Mary-Fitzpatrick-4.21.26.pdf>.

proposal and supporting materials, and lack of guardrails.<sup>57</sup> For example, one Board member, apparently referencing the recent \$200 million variance in MCE’s energy costs, observed that the “challenges and missteps of the recent past have made it clear that this organization requires more oversight of its contracting activities, not less.”<sup>58</sup> In essence, these members apparently believed that the suggestion to significantly further delegate authority to the CEO was poorly thought out and presented — and that Resolution 2026-02 required substantial revision.

In response, the Board Chair tabled the proposal, and indicated that revisions might be offered and considered in an upcoming MCE “procurement workshop.”<sup>59</sup> It is unclear when this matter will be brought back to the Board.

- **Regarding General Counsel:** The Board has also delegated to the CEO all authority for the hiring of General Counsel. Prior to August 17, 2023, MCE’s Operating Rules and Regulations (OR&R) required Board approval for the hiring of General Counsel. MCE’s revised OR&R, as amended on August 17, 2023, no longer requires such Board approval (see fn. 47). In our interviews, MCE Board members informed us that removing the Board’s own authority to approve such hiring has left the Board without access to adequate independent legal advice.

As further detailed in the Appendix, we see irregularities surrounding General Counsel’s appointment that may have left the Board unaware of how this change occurred.

- It appears that MCE’s CEO elevated the current General Counsel to that role in about April 2023 — prior to the August 17 change in the OR&R, and at a time when such an appointment required approval of the full Board. MCE purports to post (for open meetings) all Board documents on its official “Board Archive” of its proceedings. However, we have not found any Board approval, vote, or Board Minutes documenting such approval. Nor have we found any Agenda item for discussion, or even formal notice to the Board on this topic. Without full Board approval, we think General Counsel could not have assumed that position under the rules then in effect.
- MCE’s Board Archive also fails to show (as of the time of writing this report) any record reflecting that the Board was presented with any proposal to give up its then-existing authority to approve the hiring of General Counsel. We have learned that such a proposal was indeed shared with the Board immediately before the Board’s vote, yet we have not been able to discern that this late documentation was properly shared with the public, and the changes shown in the late documentation regarding General Counsel were not highlighted or described to the Board. In view of this history, and as more fully explained in the Appendix:

---

<sup>57</sup> MCE, “Meeting Archive”/ “Board of Directors April 16, 2026 Video,” <https://www.youtube.com/watch?v=j3Juv1s4cVY>, at 1:19:20–1:22:50.

<sup>58</sup> MCE, “Written Public Comment Submissions” / “Board Statement from Director Kevin Jacobs,” [https://mcecleanenergy.org/wp-content/uploads/2026/04/Board\\_Statement\\_Resolution\\_2026-02-Kevin-Jacobs.pdf](https://mcecleanenergy.org/wp-content/uploads/2026/04/Board_Statement_Resolution_2026-02-Kevin-Jacobs.pdf), at pdf p. 2.

<sup>59</sup> MCE, “Meeting Archive”/ “Board of Directors April 16, 2026 Video,” <https://www.youtube.com/watch?v=j3Juv1s4cVY>, at 1:55:00–1:55:15.

(1) *It is not apparent that the key document proposing to remove the Board’s authority to approve hiring of General Counsel was made available to the public prior to the Board’s vote (and indeed, it remains hidden from public view even now) — raising questions about whether the procedure followed complied with the “public inspection” requirements of the Brown Act, California’s “open public meetings” law;*<sup>60</sup>

(2) *The Board’s vote to remove its own authority to approve the hiring of General Counsel, made in light of MCE management’s repeated failure to highlight that significant change, contributed to a serious procedural irregularity, leaving us to question whether (a) the Board received adequate and independent legal advice about an issue that directly affected General Counsel, and (b) the Board was aware of the significant change that it approved.*

(3) *The documents setting out the proposed changes to the OR&R were appended to an email sent to Board members on August 16, and then subsequently “distributed” to the Board at the August 17 meeting. In order to provide public access for those attending that meeting remotely, the documents appended to that late email submission should have been immediately posted on MCE’s website, as contemplated by the Brown Act, Government Code section 54957.5, subdivision (b)(2)(B) — and also identified to the video audience during the Board meeting.*

***The Grand Jury’s Conclusions About The Board Giving Up Authority to the CEO: The Board has delegated its authority to MCE management in a number of areas — most prominently regarding energy procurement, and control of General Counsel. In light of the apparent disagreement among Board members concerning their proper role, we are concerned that the shift of authority to the CEO has made it more difficult for the Board to provide meaningful fiduciary oversight. Relatedly, and as discussed later in this report, the Board needs, but in recent years has not consistently received, adequate independent legal advice.***

---

<sup>60</sup> Specifically: Cal. Gov. Code, section 54957.5, subdivision (b)(1), requires that materials distributed less than 72 hours prior to discussion of agenda items must be made available for “public inspection ... at the time the writing is distributed” to the Board members. The section provides two alternative ways for an agency to comply with this requirement: First, under subdivision (b)(2)(A), the agency shall (i) make the writing available for public inspection “at a public office or location that the agency shall designate for this purpose” and (ii) list the address where [the writing] is available “on the agendas for all meetings of the legislative body of that agency.” Alternatively, an agency can comply under subdivision (b)(2)(B), by satisfying *each* of four different requirements, one of which is: “(ii) The ... agency immediately posts [the writing] on the ... agency’s internet website.”

### 3. Public Interest Groups Provide Constructive Criticism, But Frequently Receive No Meaningful Response From MCE

As alluded to previously, various entities, including Marin’s Coalition of Sensible Taxpayers, the statewide Clean Coalition, and Marin Conservation League, have submitted extensive public comments that have, in turn, been posted on MCE’s website.<sup>61</sup> Various individuals, including members of these groups, have spoken during “public comment” sessions at MCE Board and committee meetings. All of these entities and speakers have supported MCE’s mission and wish for it to succeed.<sup>62</sup> Yet all have raised substantial concerns about MCE’s financial and energy procurement decisions and related strategies, and all have expressed related concerns about MCE’s financial oversight, management transparency, and governance structure. Some of these criticisms and observations are reflected in our “findings” and “recommendations” listed later in this report. We summarize below key points raised by some of these entities:

- **Comments by Coalition of Sensible Taxpayers — presenting comparisons with other CCAs:** In September 2025 Marin’s Coalition of Sensible Taxpayers (CST) undertook a comparison of MCE with its CCA peers.<sup>63</sup> CST’s comment offered seven financial metric charts illustrating MCE’s poor financial performance relative to its peers. For example:
  - One chart shows “the dramatic \$186MM increase in energy costs MCE experienced in 2025 compared to its CCA peers. MCE’s energy costs were 30% higher in 2025 compared to the peer average of 4%.”<sup>64</sup>

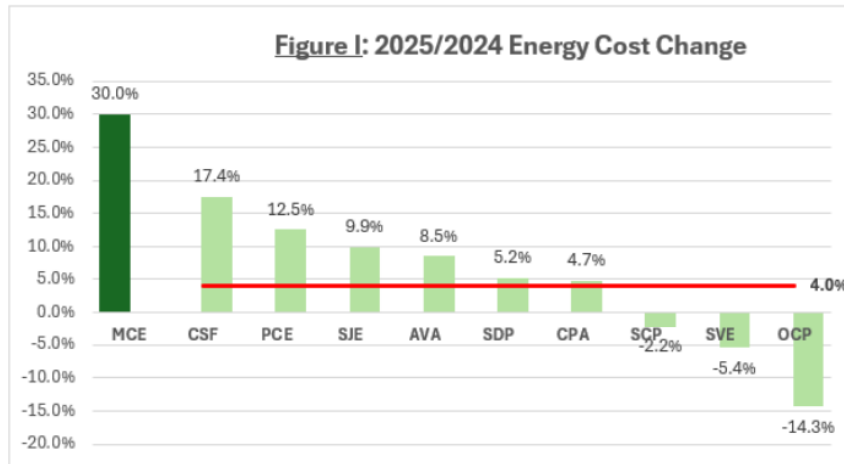
---

<sup>61</sup> Other similar entities have likewise submitted related comments advocating financial and corresponding governance reforms. MCE, “Written Public Comment Submissions” / “Sustainable San Rafael Comment Letter — Submitted October 3, 2025,” <https://mcecleanenergy.org/wp-content/uploads/2025/10/Public-Letter-Bill-Carney-Sustainable-San-Rafael-10.3.25.pdf>; MCE, “Written Public Comment Submissions” / “350Marin Comment Letter — Submitted October 6, 2025,” <https://mcecleanenergy.org/wp-content/uploads/2025/10/350Marin-Steering-Committee-Letter-Jody-Timms.pdf>; and MCE, “Written Public Comment Submissions” / “Public Comment Letter from Robin Moller — Distributed on December 2, 2025,” <https://mcecleanenergy.org/wp-content/uploads/2025/12/12.1.25-Robin-Moller.pdf>.

<sup>62</sup> For consistency and clarity, all documents and speech, submitted to MCE by the public, will in this report be referred to as “public comment,” or simply “comment.”

<sup>63</sup> MCE, “Written Public Comment Submissions” / “Mathew Salter’s Request to Distribute Letter from Mimi Willard — Distributed November 19, 2025,” <https://mcecleanenergy.org/wp-content/uploads/2025/11/Public-Comment-Letter-submitted-by-M.Salter-11.18.25.pdf>. CST observed that most CCAs report on a June 30 financial fiscal year end, except for MCE and Silicon Valley Clean Energy. It explained that its analysis adjusted MCE and Silicon Valley Clean Energy’s reported financial statements to align those agencies. *Ibid.*

<sup>64</sup> *Ibid.*



Energy Costs as of 6/30/25 (\$000s)

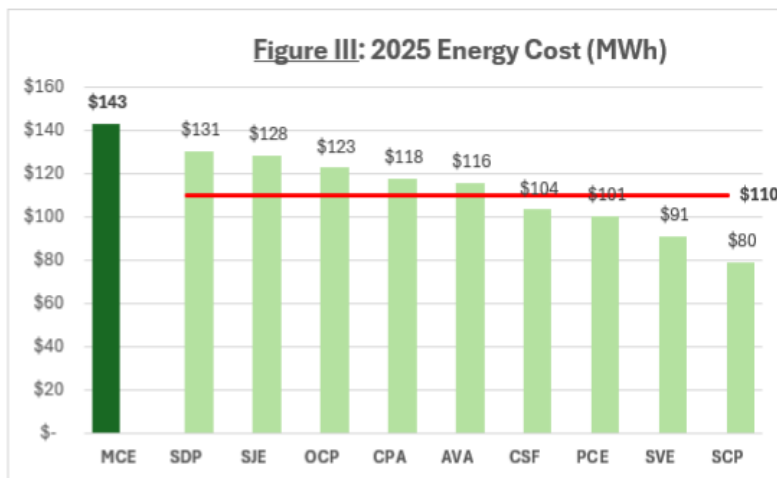
CCA	Ticker	2025	2024	Change	%
<b>MCE</b>	<b>MCE</b>	<b>\$ 805,617</b>	<b>\$ 619,564</b>	<b>\$ 186,053</b>	<b>30.0%</b>
Clean Power Alliance	CPA	1,277,422	1,219,547	57,875	4.7%
San Diego Community Power	SDP	1,101,545	1,047,553	53,992	5.2%
Ava Community Energy	AVA	767,656	707,476	60,180	8.5%
San Jose Clean Energy	SJE	427,656	389,161	38,495	9.9%
Silicon Valley Clean Energy	SVE	357,942	378,559	(20,616)	-5.4%
Orange County Power Authority	OCP	275,724	321,916	(46,192)	-14.3%
Peninsula Clean Energy	PCE	365,972	325,171	40,801	12.5%
Clean Power SF	CSF	330,219	281,217	49,002	17.4%
Sonoma Clean Power	SCP	172,915	176,729	(3,814)	-2.2%
<b>CCA Average</b>		<b>\$ 564,117</b>	<b>\$ 538,592</b>	<b>\$ 25,525</b>	<b>4.0%</b>

Caption: Change in Energy Costs at Top-10 CCAs — 2024–2025. Source: Coalition of Sensible Taxpayers (CST), <https://mcecleanenergy.org/wp-content/uploads/2025/11/Public-Comment-Letter-submitted-by-M.Salter-11.18.25.pdf>, at pdf p. 6. (Note: MCE and SVE financial statements were adjusted to reflect a June 30, 2025 fiscal year-end.)

- Another CST chart shows MCE’s 2025 energy costs per MWh compared with its peers. “MCE’s energy cost at \$143 per MWh was the highest of its peers, 30% higher than the CCA average of \$110 per MWh. This is a direct result of the timing, terms, and volume of short-term financial hedges and renewable energy credits (PCC1) that MCE procured.<sup>65</sup> While all CCAs faced surging prices in the resource adequacy and renewable energy credits markets during the period, MCE was an outlier.”<sup>66</sup>

<sup>65</sup> Regarding the terminology “renewable energy credits” (or certificates), also known as RECs, and “PCC1,” MCE’s website states: “Each time 1 megawatt of renewable energy is generated, a corresponding renewable energy certificate (REC) is also generated. RECs are the main method of accounting for renewable energy transactions.” MCE, “Energy Expert: Utility Power Purchasing”/ “How is Power Accounted for?” <https://mcecleanenergy.org/energy-expert-utility-power-purchasing/>. The same MCE page addresses “three types of RECs,” describing “PCC 1 RECs [as] ... bundled with electricity that comes from [a] renewable energy facility.” By contrast, the page explains, “PCC 2 RECs ... are bundled with electricity, but the electricity ... doesn’t have to come from [a] renewable energy facility”; and finally, “PCC 3 RECs are produced by a renewable facility, but they’re unbundled and sold without the associated electricity.” *Ibid.*

<sup>66</sup> *Ibid.*



Caption: 2025 Energy Costs (\$/MWh) at Top-10 CCAs. Source: Coalition of Sensible Taxpayers (CST), <https://mcecleanenergy.org/wp-content/uploads/2025/11/Public-Comment-Letter-submitted-by-M.Salter-11.18.25.pdf>, at pdf. 7.

- CST concluded that “MCE produced dismal fiscal 2025 results primarily due to agency-specific high energy costs and, to a lesser extent, rising staffing costs. We call on management to provide a far more detailed explanation — with accompanying documentation — of its poor financial performance in 2025. Ratepayers deserve accountability, transparency, predictability, and credibility — none of which is currently provided by MCE. CST calls on MCE’s Board to address this situation with the urgency it merits.”<sup>67</sup>

To date, MCE has posted no response to the CST public comment, nor has it otherwise addressed CST’s analysis.

- **Comments by Clean Coalition — concerning MCE’s comparative price differentials, energy purchasing decisions, and related transparency / accountability:** By public comments, Clean Coalition (CC), a statewide group focused on accelerating the transition to renewable energy, presented its own comparative rates analysis of various peer CCAs, and asserted that MCE’s “price differentials, relative to PG&E, are outliers.”<sup>68</sup> (In other words, CC reported, the average customer’s bill difference between MCE and PG&E is greater than the average bill difference between other CCAs and their own investor owned utility company.) At the MCE Board meeting held later that month, MCE management dismissed CC’s analysis as an inapt “apples-to-oranges” comparison.<sup>69</sup> In a subsequent comment to MCE’s Board, CC stated:

<sup>67</sup> *Ibid.*

<sup>68</sup> MCE, “Written Public Comment Submissions” / “Clean Coalition Comment Letter for September MCE Board Meeting,” [https://mcecleanenergy.org/wp-content/uploads/2025/10/RE-Item-7-Meeting-Minutes\\_Clean-Coalition\\_9.17.25.pdf](https://mcecleanenergy.org/wp-content/uploads/2025/10/RE-Item-7-Meeting-Minutes_Clean-Coalition_9.17.25.pdf).

<sup>69</sup> MCE, “Meeting Archive” / “Board of Directors September 18, 2025 Video,” [https://www.youtube.com/watch?v=JmB25Q\\_rNSY](https://www.youtube.com/watch?v=JmB25Q_rNSY), at 1:48:57–1:50:35.

- “Our analysis shows that MCE’s customers are paying some of the highest premiums above the host utility.”<sup>70</sup>
- “There is no statistical correlation between renewable energy content and electricity rates when reviewing CCA data. In other words, it is mathematically untrue that CCAs with a higher renewable content must charge the highest electricity rates.”<sup>71</sup>
- “Average wholesale energy prices have been falling for multiple years (even as MCE has consistently misforecasted market conditions).”<sup>72</sup> “The Board deserves a detailed line-by-line explanation of why MCE’s Energy Costs have risen significantly at a time when market energy prices have declined.” In this respect, CC posed several pointed questions concerning transparency and accountability (see graphic) and concluded: “Until these questions are answered comprehensively, the Board does not have sufficient information to implement the meaningful reforms needed to prevent anything similar from happening again.”<sup>73</sup>

<b>Questions Posed by the Clean Coalition to MCE</b>
1. Why is the \$200 million swing in energy costs being attributed to volatility when market data clearly demonstrates a predictable year-over-year downward trend and a consistent intra-year swing for wholesale energy prices?
2. Why did it take until 6 months after the end of the fiscal year for MCE to, proverbially, "hit the panic button"?
3. Is MCE's share of short-term contracts too high? If so, why?
4. Have last-minute hedge contracts resulted in MCE accepting what would normally be unacceptable prices? If so, how many contracts, and during what times of the year?
5. What guardrails are in place to prevent a similar issue from occurring again, if the risk management framework has not shifted due to any events over the past three years?
6. If MCE's Board does not have any granular data or clear explanations for such critical missteps, who at MCE is addressing these issues?
7. Why is this level of transparency and accountability (or the lack thereof) acceptable given the CCA's obligation to operate in a manner that serves the best interests of the ratepayers?

Caption: Questions posed by Clean Coalition to MCE regarding its transparency and accountability. Source: Clean Coalition <https://mcecleanenergy.org/wp-content/uploads/2025/10/Clean-Coalition-Letter-9.30.25.pdf>, at pdf p. 5.

<sup>70</sup> MCE, “Written Public Comment Submissions” / “Clean Coalition Comment Letter for September MCE Board Meeting,” [https://mcecleanenergy.org/wp-content/uploads/2025/10/RE-Item-7-Meeting-Minutes\\_Clean-Coalition\\_9.17.25.pdf](https://mcecleanenergy.org/wp-content/uploads/2025/10/RE-Item-7-Meeting-Minutes_Clean-Coalition_9.17.25.pdf).

<sup>71</sup> *Ibid.*

<sup>72</sup> *Ibid.* The letter continued: “One of the questionable assertions made in regard to the unexpected \$200 million swing in Energy Costs experienced by MCE is that the increased costs can be attributed to short-term contracts, hedging, and normal volatility. While the Clean Coalition is not questioning this particular data that was provided by MCE staff, the most important questions were left completely unanswered. What specific underlying market dynamics left MCE on the hook for these high prices, and was it foreseeable? . . . On average, the price of wholesale energy in the CAISO market has decreased in each of the last three years since the end of MCE’s Fiscal Year 2023, which ended in March 2023. [Citing and showing a graph.] Market fluctuations are traditionally dictated by natural gas prices, with higher prices during the annual system peak in the summer and extending through the winter as demand increases due to reliance on natural gas for heating purposes. This is a predictable trend.” *Ibid.*

<sup>73</sup> *Ibid.*

MCE management addressed CC’s public comments in a response, directed to MCE Board members, posted on MCE’s website. Regarding CC’s first and main issue, that MCE’s must remain competitive, the response asserted that, although MCE has no “policy” regarding comparing its rates to those of other CCAs, “MCE remains competitive compared to its CCA peers and PG&E.”<sup>74</sup> The response also attributed the approximately \$200 million variance in energy costs that MCE had experienced in the 2024–2025 fiscal year in part to MCE’s policy of “high quality renewable purchases.”<sup>75</sup> The response did not directly address CC’s contention that a CCA such as MCE, that provides higher renewable content than its peers, need not also charge the highest electricity rates, or how CC went wrong in its analysis. Although one might expect some explanation that would allow observers to understand why CC’s numbers might be “apples,” and MCE’s numbers might be “oranges,” MCE’s response instead explains MCE’s management’s views on a variety of subjects,<sup>76</sup> while extolling the virtues of MCE’s products. Nor did the response acknowledge or address CC’s pointed criticisms (found in its follow-up public comment, and highlighted above) concerning fiscal responsibility, transparency, and the Board’s ability to fulfill its governance responsibilities.

- **Comments by Marin Conservation League — questioning energy contracts that were signed at the height of the market, and the “greenness” of such contracts:** Beginning in September 2025 Marin Conservation League (MCL), an entity devoted to preserving and protecting Marin’s natural assets in a changing environment, submitted various critiques addressing MCE’s finances, transparency, and governance, all of which have been posted on MCE’s website.<sup>77</sup> Most recently, in late January 2026 MCL submitted a new public comment focusing on the \$200 million that MCE spent in FY 2024–25 on certain energy contracts that were signed at the height of the market.<sup>78</sup> MCL requested that MCE “provide a full analysis of the impact and value” of such contracts in order to determine the extent to which they actually reflect or encourage what is termed in the industry as “additionality” — that is, evidence that a renewable energy procurement contract has directly caused the construction of new (additional) renewable energy generation capacity that would not otherwise have been built. MCL noted that

---

<sup>74</sup> MCE, “Written Public Comment Submissions” / “MCE Response to Clean Coalition Letters — Distributed October 1, 2025,” <https://mcecleanenergy.org/wp-content/uploads/2025/10/MCE-Response-to-Clean-Coalition-Letters.pdf>.

<sup>75</sup> *Ibid.*

<sup>76</sup> *Ibid.* MCE’s response begins with a discussion of rates and costs, but then veers from addressing CC’s points, instead discussing bill credits, local solar generation, maintenance of financial reserves, and various activities in its “suite of customer programs” — and summarizing all of this as examples of “Adaptability and Innovation.” *Ibid.*

<sup>77</sup> MCE, “Written Public Comment Submissions” / “Marin Conservation League Letter — Submitted October 3, 2025” <https://mcecleanenergy.org/wp-content/uploads/2025/11/MCL-to-MCE-10.3.25.pdf>; “Marin Conservation League Letter — Submitted November 18, 2025” <https://mcecleanenergy.org/wp-content/uploads/2025/11/11.18.25-Public-Comment-Rebecca-Schwartz-Lesberg-for-MCE-BOD-meeting-agenda-item-8.pdf>; “Marin Conservation League Letter — Submitted November 19, 2025” <https://mcecleanenergy.org/wp-content/uploads/2025/11/11.19.25-Public-Comment-Rebecca-Schwartz-for-MCE-BOD-meeting-agenda-item-9.pdf>.

<sup>78</sup> MCE, “Written Public Comment Submissions” / “Public Comment Letter from Rebecca Schwartz at MCL — Distributed February 2, 2026” (letter dated Jan. 29, 2026), <https://mcecleanenergy.org/wp-content/uploads/2026/02/Public-Comment-from-Rebecca-Schwartz-Lesberg-at-MCL-Distributed-2.2.26.pdf>.

“MCE and the Board have significant discretion over this very large expenditure” that, MCL asserted, only “reshuffles” clean energy attributes among parties, and yet those same funds could be better expended on other more worthy projects that might provide more renewable energy and more real reduction in greenhouse-gas energy sources. MCL suggested that MCE has entered into such questionable contracts in order for MCE to acquire the legal right to claim (and advertise) a higher renewable Power Content Label (PCL) attributable to its electricity generation. Yet, MCL asserted, such energy purchases do not, in fact, lead to substantial (or perhaps even any) real-world environmental “additionality.”<sup>79</sup> The questions raised by MCL’s comment appear to be reasonably intended to elicit information that could be useful in the Board’s evaluation of the costs and benefits of the FY 2024–25 contracts, and similar contracts in the future.

MCE quickly issued a response, denying that MCE enters into certain types of energy purchasing contracts *solely* so that it can report a more “green” power content label in its advertising.<sup>80</sup> This response did not address MCL’s concern that the funds paid for the challenged expensive energy contracts might better be spent on other more worthy “green” projects. Moreover, as MCL observed in its own subsequent reply, MCE’s response failed to address the substance of MCL’s other points,<sup>81</sup> stating that MCE offered “no quantification in megawatts, number of facilities, or any other metric of new capacity”; and its “statements [did] not explain how buying attributes through [the challenged] contracts lead to any new renewable or GHG-free energy capacity.”<sup>82</sup> Nor, MCL observed, did MCE’s response address MCL’s primary assertion that some of MCE’s key contracts amount to greenwashing — that is, energy attributes being “reshuffled” among parties without creating new renewable energy or GHG-free energy production or capacity, for the purpose of enhancing MCE’s Power Content Label. Accordingly, MCL repeated its earlier request that MCE thoroughly assess the costs and environmental benefits of the challenged contracts and present the results to the appropriate Board committees and the full Board, so that the Board can incorporate the

---

<sup>79</sup> *Ibid.* This issue is also addressed in more specific detail in a subsequent submission by MCE customer and observer Nick Pappas: “Purchasing these offsets has added hundreds of dollars to MCE customer bills in recent years, and it is worth noting that these purchases are strictly for voluntary marketing claims. Even as prices have declined, MCE proposes to spend \$54 million ... on short-term attributes in FY26-27 — around \$90 per household.” He asks Board members: “Do you have enough information to justify these added costs to your constituents?” MCE, “Written Public Comment Submissions” / “Public Comment From Nick Pappas — Distributed 2.19.26, at pdf p. 5. <https://mcecleanenergy.org/wp-content/uploads/2026/02/Public-Comment-from-Nick-Pappas-Distributed-2.19.26.pdf>.

<sup>80</sup> MCE, “Written Public Comment Submissions” / “Response to MCL — Distributed February 2, 2026,” <https://mcecleanenergy.org/wp-content/uploads/2026/02/MCE-Response-to-MCL-Comment-2.2.26.pdf>. MCE’s response begins: “MCE did not spend \$202 million on unbundled (“PCC3”) attribute-only contracts, as stated in the letter.” “PCC3” (meaning “Portfolio Content Category 3”) refers to certain types of energy contracts. Yet MCL’s letter nowhere referred to or addressed such contracts.

<sup>81</sup> MCE, “Written Public Comment Submissions” / “Public Comment from Rebecca Schwartz at MCL — Distributed 2.11.26,” <https://mcecleanenergy.org/wp-content/uploads/2026/02/Public-Comment-from-Rebecca-Schwartz-Lesberg-at-MCL-Distributed-2.11.26.pdf>.

<sup>82</sup> *Ibid.*

findings from that analysis “into the current budget process.”<sup>83</sup> Again, this appears to be a reasonable request, as the Board should have sufficient information to evaluate these concerns.

As of this writing, MCE has provided no further response to MCL’s reply. In the meantime, the Sierra Club recently has submitted extensive public comment, echoing and expounding upon MCL’s concerns — including, specifically, that “MCE spends significant ratepayer funds on environmental attributes — often of questionable impact — to offset [‘fossil energy products’] ... purchases on its Power Content Label.”<sup>84</sup>

*The Grand Jury’s Conclusions About Public Comments by Watchdog Groups: Numerous well-intentioned advocates have been critical of MCE regarding its financial performance; average customer bills exceeding those of full service PG&E customers by a larger amount than at peer CCAs; and costly renewable energy purchases that serve to increase MCE’s advertised “greenness” but, assertedly, contribute no (or little) additional clean energy. The Grand Jury has evaluated these comments because they raised issues later discussed by Board members. Although we do not take a position on these technical claims, we believe it is necessary for these comments to be addressed by management and the Board. To accomplish this, the Board will require more detailed information contained in these contracts. Whereas MCE management asserts it has responded to these public comments, in the best of cases, it does not respond to critics, specifically and substantively. In other instances, management has provided no response, mischaracterized the criticisms, misdirected and shifted responsibility, or responded with marketing.*

---

<sup>83</sup> MCE, “Written Public Comment Submissions” / “Public Comment from Rebecca Schwartz at MCL — Distributed 2.11.26,” <https://mcecleanenergy.org/wp-content/uploads/2026/02/Public-Comment-from-Rebecca-Schwartz-Lesberg-at-MCL-Distributed-2.11.26.pdf>.

<sup>84</sup> MCE, “Written Public Comment Submissions” / “Public Comment Letter from Julia Dowell — Distributed 4.15.26,” <https://mcecleanenergy.org/wp-content/uploads/2026/04/Public-Comment-Letter-Julia-Dowell-4.15.26.pdf>, at pdf p. 4. The Sierra Club concludes: “Beyond these significant environmental policy concerns, these attributes represent considerable expenditures from MCE customers — unjustly adding to the energy burden for the 1.5 million people MCE serves for no apparent benefit or purpose beyond fleeting and illusory environmental claims. MCE proposes to spend \$54 million in the next fiscal year on these attributes, approximately \$90 per household, in addition to the hundreds of millions it will spend to back these paper attributes with fossil energy and capacity.” *Id.* at pdf p. 5. MCE quickly posted an extensive response, again challenging the analysis employed by both MCL, and embraced by the Sierra Club. MCE, “Written Public Comment Submissions” / “MCE’s Response to Sierra Club Letter,” <https://mcecleanenergy.org/wp-content/uploads/2026/04/MCE-Reponse-to-Sierra-Club-Letter-MCE-Energy-Procurement-and-Governance-Concerns-April-15-2026.pdf>, at pdf pp. 1–4. Regarding the Sierra Club’s contention quoted in the text above, MCE replied: “Despite repeated assertions to the contrary, MCE does not purchase short-term attributes to mask reliance on the gas-fired fleet in the grid. MCE does use short-term contracts for bundled renewable and greenhouse gas-free energy to help bridge the gap as we wait for new long-term resources to come online and to help keep costs lower for customers.” *Id.* at pdf p. 4.

#### 4. MCE's Management Has Violated its Internal Controls Concerning Energy Contracts, and Promoted Inaccurate Advertising About "Green" Power Content

MCE has failed to adhere to its own important internal controls governing consultation about, and signing of, certain significant and costly energy contracts. Questions have also been raised concerning the accuracy of certain advertising statements about the renewability of MCE's power content, statements that MCE later revised.<sup>85</sup> We believe these errors arise out of management's casual approach to internal controls and transparency.

- **Compliance with internal controls concerning consultation about and execution of one-to-five-year energy contracts:** MCE's Resolution 2020-04 states: "The CEO and Technical Committee Chair, jointly, are hereby authorized, after consultation with the appropriate Committee of the Board of Directors, to approve and execute contracts for Energy Procurement for terms of less than or equal to five years. The CEO shall timely report to the Board of Directors all such executed contracts."<sup>86</sup>

In early 2026 an observer, who had reviewed a posted draft of MCE management's proposal for addressing recently asserted "misinformation," questioned whether MCE was adhering to its own internal consultation and execution rules called for by Resolution 2020-04.<sup>87</sup> The observer called for an audit to examine whether contracts were signed by the appropriate Board members, and implored the Board to act "as fiduciaries," to "ensure that the CEO does not bind MCE into energy procurement contracts that are not properly authorized and executed."<sup>88</sup>

MCE responded in a legal memo to the Board's Technical Committee, reflecting an internal investigation signed jointly by MCE's General Counsel and outside counsel.<sup>89</sup>

---

<sup>85</sup> MCE itself highlighted these two problems in its own document that was designed to address asserted "misinformation" about MCE. See MCE, "Board Meetings"/ "Meeting Archive" / "Board of Directors January 15, 2026 Supplemental Packet," <https://mcecleanenergy.org/wp-content/uploads/2026/01/MCE-Board-Meeting-Supplemental-Packet-January-2026.pdf>, Item 5, Consent Calendar, C.4 ("Ensuring Accuracy in Local Information"), at pdf p. 19.

<sup>86</sup> MCE, "Key Documents" / "Resolutions and Ordinances" / "Resolution 2020-04," <https://mcecleanenergy.org/wp-content/uploads/2020/11/Resolution-2020-04-Delegating-Energy-Procurement.DOCX.pdf>. The Resolution states, in relevant part: "2. Delegation to the Chief Executive Officer and Technical Committee Chair, Jointly. [Par.] The CEO and Technical Committee Chair, jointly, are hereby authorized, after consultation with the appropriate Committee of the Board of Directors, to approve and execute contracts for Energy Procurement for terms of less than or equal to five years. The CEO shall timely report to the Board of Directors all such executed contracts."

<sup>87</sup> MCE, "Written Public Comment Submissions" / "Public Comment Letter by Alicia Minyen — Distributed January 6, 2026," <https://mcecleanenergy.org/wp-content/uploads/2026/01/1.6.26-Alicia-Minyen.pdf>, at pdf p. 2. This public comment responded to a draft document set out in MCE, "Meeting Archive" / "Executive Committee January 5, 2026 Meeting Packet" [https://mcecleanenergy.org/wp-content/uploads/2025/12/MCE-Executive-Committee-Meeting-Packet\\_January\\_2026.pdf](https://mcecleanenergy.org/wp-content/uploads/2025/12/MCE-Executive-Committee-Meeting-Packet_January_2026.pdf), item 5.C.2 ("Corrections to Marin IJ & Misinformation").

<sup>88</sup> MCE, "Written Public Comment Submissions" / "Public Comment Letter by Alicia Minyen — Distributed January 6, 2026," <https://mcecleanenergy.org/wp-content/uploads/2026/01/1.6.26-Alicia-Minyen.pdf>, at pdf p. 3.

<sup>89</sup> MCE, "Meeting Archive" / "Technical Committee February 6, 2026 Meeting Packet," [https://mcecleanenergy.org/wp-content/uploads/2026/01/MCE-Technical\\_Committee-Packet-February\\_2026.pdf](https://mcecleanenergy.org/wp-content/uploads/2026/01/MCE-Technical_Committee-Packet-February_2026.pdf), at

- Regarding consultation, the memo asserted that Resolution 2020-04 “does not specify a minimal level of detail to be provided to the Technical Committee during the ‘consultation’ process,” and that *management’s “historic practice” of providing only high level and general overview once, at the beginning of each year, satisfies the requirement of “prior consultation” with the Technical Committee.*<sup>90</sup>
- Regarding execution of contracts, the memo conceded that “20 active one-to five-year contracts were executed jointly by the CEO ... and either Chair or the Vice Chair of the Board of Directors” (i.e., *not* by “the CEO and Technical Committee Chair, jointly,” as required by Resolution 2020-04). And yet, the memo concluded, this repeated practice was consistent with Resolution 2020-04, “when read jointly with” *another* MCE document — its “Operating Rules and Regulations.”<sup>91</sup>

**The Grand Jury’s Assessment:** We have doubts about the MCE legal memo’s analysis regarding both (1) Resolution 2020-04’s “consultation” requirement, and (2) its execution / authorization requirement.

- (1) *Regarding Resolution 2020-04’s consultation requirement:* It seems questionable whether the truncated once-per-year consultation afforded by MCE management in the last few years comports with the spirit and intent of Resolution 2020-04’s explicit requirement of prior “consultation with the appropriate Committee of the Board of Directors.”
- (2) *Regarding Resolution 2020-04’s execution / authorization requirement:* MCE’s legal memo concludes that a long-existing *general* provision in MCE’s Operating Rules and Regulations (the language of which is not quoted in MCE’s memo), authorizes the challenged *routine* departure from the much more *specific* (and more-recently adopted) internal control procedure that Resolution 2020-04 requires for the execution / authorization of energy contracts. But assuming for purposes of analysis that these two provisions can properly be harmonized as the MCE legal memo maintains, to allow some departure from the specific execution / authorization requirements of Resolution 2020-04 in *unusual* circumstances, we find it troubling that such departures have been *routine*.<sup>92</sup>

---

pdf p. 66 (agenda item 9, “Resolution 2020-04: Review Consultation and Execution of Certain Contracts (Discussion)”).

<sup>90</sup> *Ibid.*

<sup>91</sup> *Ibid.* The memo asserts: “The OR&R (which is a separate exercise of the Board’s authority) expressly authorize the Chair to execute contracts adopted or authorized by the Board and for the Vice-Chair to execute the Chair’s duties in the Chair’s absence. (OR&R Article IV, Section 1(a) & (b).) Thus, Resolution 2020-04 read jointly with the OR&R explains that the Chair or Vice-Chair may also approve and execute a contract that was entered into pursuant to the Resolution 2020-04 as authorized by the Board when necessary and proper.” *Ibid.*

We note that the MCE legal memo does not *quote* the language of MCE’s Operating Rules and Regulations, article IV, § 1, parts a & b. Those passages provide, in relevant part: “*Duties of the Chairperson* [or in that person’s absence, the Vice-Chair] *are to* review the business agenda before MCE meetings, preside over MCE Board meetings, and *sign all* ordinances, resolutions, *contracts*, and correspondence *adopted or authorized by the Board.*” MCE “Formation Documents” / “Amended Operating Rules and Regulations (pdf) — August 17, 2023,” <https://mcecleanenergy.org/wp-content/uploads/2023/08/Amended-MCE-Operating-Rules-Regulations-Final-8.21.23.pdf>

<sup>92</sup> It seems apparent that regarding one-to-five-year energy contracts, Resolution 2020-04 is the more specific and primary controlling provision — and that the OR&R, referring in general to other “contracts,” serves at most as a back-up provision that should become applicable in only rare circumstances, if ever.

Despite at least 20 recent deviations from the procedure required by Resolution 2020-04,<sup>93</sup> neither MCE’s General Counsel nor its CEO brought this internal control violation to the attention of the Board. With such notification, the Board could have been advised, and considered whether to take steps to address the continuing transgressions. And armed with such knowledge, the Board might have avoided large purchases of energy that continue to affect MCE’s ability to lower the cost of electricity for ratepayers. Instead, it took an outside observer to uncover this apparent significant failure to follow MCE’s own internal control rules in this important respect. *This, we conclude, appears to reflect problematic inattention by the Board, management’s casual attitude toward operating rules, and a willingness to engage in corner-cutting by MCE management and its General Counsel.*

- **MCE’s assertion that it has provided “100% fossil-free power since 2018”:** As noted above, a public comment response, prepared by MCE management and designed to address asserted “misinformation” about MCE, prominently included a significant error that MCE has used in its advertising.<sup>94</sup> The first bullet point in this piece stated: “Fifteen years of reliable service and 100% fossil-free power since 2018.”<sup>95</sup> After another outside observer called into question the truth of this statement, and raised a related concern that the Board “might not be getting a clear picture on [this or] other environmental issues,”<sup>96</sup> six days later MCE rescinded its claim.<sup>97</sup> Yet, at a subsequent public meeting, MCE’s CEO downplayed that abandonment and presented an alternative narrative, stating: “A newspaper article may have given the impression that MCE changed its language regarding fossil free due to a reform. Instead, this change is due to a long-standing approach to incorporate feedback from all sides and accommodate requests in the most

---

<sup>93</sup> MCE, “Meeting Archive” / “Technical Committee February 6, 2026 Meeting Packet,” <https://mcecleanenergy.org/wp-content/uploads/2026/01/MCE-Technical-Committee-Packet-February-2026.pdf> (agenda item 9, “Resolution 2020-04: Review Consultation and Execution of Certain Contracts (Discussion)”). We do not know whether (and if so, to what extent) this deviation from internal controls also occurred with regard to shorter-term energy contracts that were, as of the date of the MCE legal memo, no longer “active.”

<sup>94</sup> MCE, “Board Meetings”/ “Meeting Archive” / “Board of Directors January 15, 2026 Supplemental Packet,” <https://mcecleanenergy.org/wp-content/uploads/2026/01/MCE-Board-Meeting-Supplemental-Packet-January-2026.pdf>, Item 5, Consent Calendar, C.4 (“Ensuring Accuracy in Local Information”), at pdf p. 19.

<sup>95</sup> *Ibid.* The Executive Committee had earlier discussed this statement, and some Board members had questioned its accuracy. See MCE “Meeting Archive” “Executive Committee January 5, 2026 Video,” <https://www.youtube.com/watch?v=Pfw9mTQ1RM8> at, e.g., 1:53:13–15:29 [quoting the statement, and asking, “have we had 100 percent fossil free power for the 15 years?” In response the CEO stated: “[Yes,] you can go back and look at the power content label” and, on immediate further questioning, confirmed that the statement applied “for the entire 15 years.” *Id.* at 1:53:30–1:53:38. Nevertheless, after additional pointed public comment on the issue (*id.* at 2:44:11–2:46:58), and related clarifications from MCE staff (*id.* at 2:55:08–2:55:16), acknowledging that MCE had indeed acquired some amounts of energy that was not fossil free, the Executive Committee ultimately voted to retain the quoted statement, but to add a caveat footnote. *Id.* at 2:56:15–2:35:46. The resulting footnote appears in the previously cited version of the public comment response set out in the January 15, 2026 Board packet (see fn. 94), and reads: “In the early years of MCE’s operations, specifically in 2015, 2016, and 2017, our Light Green product included a limited amount of natural gas, ranging from 5% to 12%, as reflected in the Power Content Labels published by the California Energy Commission.”

<sup>96</sup> MCE, “Written Public Comment Submissions” / “Request to Forward to the Board — Director Kullaway — Distributed January 21, 2026,” <https://mcecleanenergy.org/wp-content/uploads/2026/01/Request-to-Forward-to-Board-Director-Kullaway.pdf>.

<sup>97</sup> MCE, “Written Public Comment Submissions” / “Message to the Board — Jamie Tuckey — Distributed January 21, 2026,” <https://mcecleanenergy.org/wp-content/uploads/2026/01/Message-to-Board-Jamie-Tuckey.pdf>.

simple way ... so we removed the term entirely for simplicity.”<sup>98</sup> We find this a facile recharacterization, in response to criticism, to avoid acknowledging an obvious error.

Similar issues continue to arise at MCE. Even as we write this, according to media reporting in April 2026, MCE overpaid its CEO about \$60,000 in 2024.<sup>99</sup> Although this overpayment is not directly related to the contract signing violations and advertising error that we mention above, these three aspects of MCE’s operations share a common theme: lack of sufficient internal controls. According to the media report, MCE has explained that it conducted a comprehensive audit, and advised that this overpayment was an isolated event.<sup>100</sup> However, we note that this incident apparently did not come to light in MCE’s financial audit of FY 2024–25, and MCE’s spokesperson did not say whether this compensation error was the result of a single overpayment, or multiple monthly payments.

*The Grand Jury’s Conclusions About Internal Controls and Exaggerated Marketing Claims: MCE has repeatedly violated its own internal controls concerning Board consultation, and signing of energy contracts, effectively removing Board members from decisions about important, short-term, power expenditures. Moreover, although MCE does, to a significant extent, supply clean energy to its customers, its exaggerated claims have created unnecessary public confusion, and the extent of the “greenness” of MCE’s energy portfolio continues to be unclear. Management appears to consider following critical controls optional, and routinely minimizes violations, or claims its contrary actions are consistent with the rules.*

## **5. MCE’s Energy Costs Have Recently Increased Without Board Visibility Or Influence**

When certain energy costs increased dramatically in 2024, the Board learned about this only months after the contracts were signed (and therefore the costs incurred). Rather than bring this to the attention of the Board in advance to discuss possible alternatives, the \$200 million energy cost increase was decided without the Board weighing in on these substantial expenditures.

According to MCE’s most recent audited financial statement for FY 2024–25, its cost of electricity increased from \$571.4 million in FY 2024 to \$768.5 million in FY 2025, an increase of \$197.1 million (more than 34 percent).<sup>101</sup> MCE’s professional independent auditor noted that “the primary reason for the increase in energy costs was *the rising costs in the resource adequacy market and the timing and pricing of certain contracts* that were executed to comply with the State’s Renewable Portfolio Standards (RPS) through acquisition of Renewable Energy Certificates (RECs).”<sup>102</sup>

---

<sup>98</sup> MCE, “Board Meetings”/ “Meeting Archive” / “Executive Committee February 2, 2026 Video,” <https://www.youtube.com/watch?v=tZhnn8fa7vU>, at 15:25–16:35.

<sup>99</sup> Steven Rosenfeld, “MCE overpaid chief executive nearly \$60K in 2024” (Apr. 26, 2026) *Marin Independent Journal*, <https://www.marinij.com/2026/04/26/mce-overpaid-chief-executive-nearly-60k-in-2024/>.

<sup>100</sup> *Ibid.*

<sup>101</sup> MCE, “Key Documents” / “Audited Financial Statements” / “2025 Financial Statements (pdf),” [https://mcecleanenergy.org/wp-content/uploads/2025/09/Final-Audited-Financial-Statements-FY\\_-2024.25.pdf](https://mcecleanenergy.org/wp-content/uploads/2025/09/Final-Audited-Financial-Statements-FY_-2024.25.pdf), at pdf p. 12.

<sup>102</sup> *Id.* at pdf p. 7, italics added. The purchasing of costly RECs is discussed in the text and accompanying fn. 133.

That increase in energy costs led to an operating loss of \$12.1 million in FY 2024–25, contrasted with an operating gain of \$144.1 million the prior year — a swing of \$156.2 million.<sup>103</sup> MCE reported an overall gain of \$13.2 million that year when including investment income,<sup>104</sup> and MCE’s independent auditor reported that “despite the increases in prices for energy products, MCE remains in a strong financial position with a stable customer base.”<sup>105</sup> Neither of these positive statements can be attributed to FY 2024–05 energy purchasing, MCE’s primary activity.

Another driver of operating costs, though to a lesser extent, is the increase in staff compensation from \$20.9 million in FY 2023–24 to \$24.7 million in FY 2024–25,<sup>106</sup> an increase of 18 percent. Indeed, in the seven years between FY 2017–18 and FY 2024–25, total staffing costs grew by more than 400 percent — from \$5.9 million<sup>107</sup> to \$24.7 million — and during this same period employee headcount (full time equivalent) rose from 76 to 115 — a jump of more than 50 percent.<sup>108</sup> The previously mentioned CCA peer analysis by Marin’s Coalition of Sensible Taxpayers (CST) shows that MCE’s FY 2024–25 compensation as a percentage of total revenue was already among the highest for top-10 CCAs.<sup>109</sup> According to CST, in 2025 MCE’s staff costs accounted for 3.2 percent of revenue. “This is significantly higher than the peer CCA average of 2.5% of revenue. Staff costs at the larger CCAs, San Diego Community Power and Clean Power Alliance, are considerably lower at 1.4% and 1.6% respectively. As the agencies scale, overhead costs as a percentage should fall due to economies of scale. Unfortunately, MCE is not achieving the same level of efficiency as it scales, resulting in [poorer performance] ... than its peers.”<sup>110</sup>

---

<sup>103</sup> *Id.* at pdf. p. 12.

<sup>104</sup> *Ibid.*

<sup>105</sup> MCE, “Key Documents” / “Audited Financial Statements” / “2025 Financial Statements (pdf),” [https://mcecleanenergy.org/wp-content/uploads/2025/09/Final-Audited-Financial-Statements-FY\\_-2024.25.pdf](https://mcecleanenergy.org/wp-content/uploads/2025/09/Final-Audited-Financial-Statements-FY_-2024.25.pdf), at pdf p. 9.

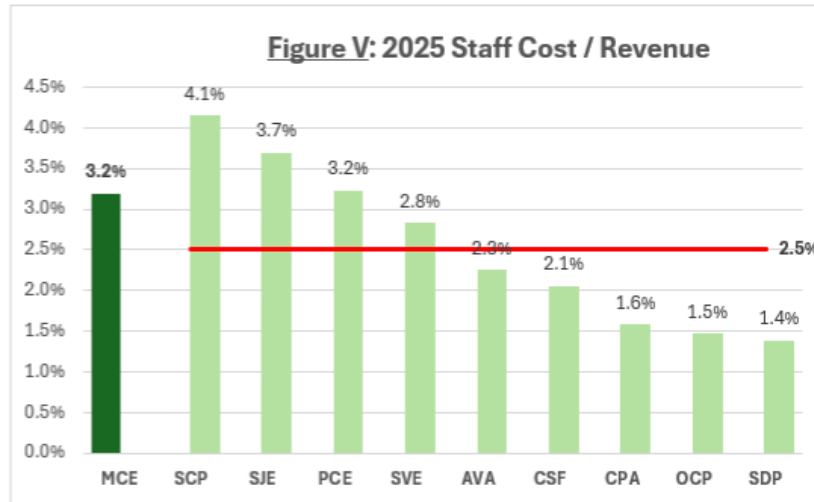
<sup>106</sup> *Id.* at pdf p. 12.

<sup>107</sup> MCE, “Key Documents” / “Audited Financial Statements” / “2018 Financial Statements (pdf),” <https://mcecleanenergy.org/wp-content/uploads/2020/09/MCE-Financial-Statements-Years-Ended-March-31-2018-2017-With-Report-of-Independent-Auditors.pdf>, at pdf p. 14 (FY 2017–2018).

<sup>108</sup> Government Compensation in California, “Marin Clean Energy 2018,” <https://publicpay.ca.gov/Reports/SpecialDistricts/SpecialDistrict.aspx?entityid=2821&year=2018> (104 reported “employees,” minus the then-28 unpaid Board members); MCE, “Meeting Archive” / “Board of Directors February 11, 2026 Special Meeting.” <https://mcecleanenergy.org/wp-content/uploads/2026/02/MCE-Board-Meeting-Packet-February-2026.pdf>, at pdf p. p. 87 (showing FY 2024–2025 staff).

<sup>109</sup> MCE, “Written Public Comment Submissions” / “Mathew Salter’s Request to Distribute Letter from Mimi Willard — Distributed November 19, 2025,” <https://mcecleanenergy.org/wp-content/uploads/2025/11/Public-Comment-Letter-submitted-by-M.Salter-11.18.25.pdf>. And yet, as observed subsequently (text accompanying fns. 146–147), MCE has recently given 12.5 percent salary increases to its staff, thus affecting the FY 2026–27 budget prior to Board approval of that budget.

<sup>110</sup> *Ibid.*



Caption: 2025 Staff Cost as a Percentage of Revenue at Top-10 CCAs. Source: Coalition of Sensible Taxpayers (CST), <https://mcecleanenergy.org/wp-content/uploads/2025/11/Public-Comment-Letter-submitted-by-M.Salter-11.18.25.pdf>, at pdf. p. 7.

Consistent with the findings in the audit mentioned above (noting that MCE’s energy costs rose in 2024 primarily because of increasing energy costs “and the timing and pricing of certain contracts”), MCE’s management has cited energy price volatility, combined with MCE’s policy to remain at the highest level of renewable energy, as the cause of the spike in energy contracts during that period.<sup>111</sup> CST, as previously observed, disagrees, and has presented data indicating that MCE has underperformed in comparison with its CCA peers — all of which have faced similar energy market conditions — on a variety of FY 2024–25 financial metrics including: Energy Revenue, Energy Cost, Net Energy Margin, Staff Cost per Revenue, Operating Margin and Return on Equity.<sup>112</sup>

After the contract signing violations of FY 2024–25, MCE’s unaudited financial statements for the first three quarters of FY 2025–26 are now trending in a positive direction. Following a first quarter operating loss of \$26.9 million, second and third quarter gains made up for that initial loss, resulting in operating income of \$19.8 million for the first nine months of FY 2025–26.<sup>113</sup> In addition, in light of the Board’s vote in late 2025 to form a standing Finance Committee<sup>114</sup> (after management and other Board members opposed doing so for more than two years), the

<sup>111</sup> MCE, “Board Meetings” / “Meeting Archive” / “Board of Directors November 20, 2025 Video,” [MCE Board Meeting November 20, 2025](#), at 1:52:17–2:26:05.

<sup>112</sup> MCE, “Written Public Comment Submissions” / “Mathew Salter’s Request to Distribute Letter from Mimi Willard — Distributed November 19, 2025,” <https://mcecleanenergy.org/wp-content/uploads/2025/11/Public-Comment-Letter-submitted-by-M.Salter-11.18.25.pdf>, pp. 5–6, figures II–VII.

<sup>113</sup> MCE, “Key Documents” / “Unaudited Quarterly Financial Statements” / “MCE Q1 2025–26 Report (pdf),” <https://mcecleanenergy.org/wp-content/uploads/2025/09/MCE-2025-06-Financial-Statements.pdf>, at pdf p. 3 (FY Q1); MCE, “Key Documents” / “Unaudited Quarterly Financial Statements” / “MCE Q2 2025–26 Report (pdf),” <https://mcecleanenergy.org/wp-content/uploads/2025/11/MCE-2025-09-Financial-Statements.pdf>, at pdf p. 3 (FY Q2); MCE, “Key Documents” / “Unaudited Quarterly Financial Statements” / “MCE Q3 2025–26 Report (pdf),” <https://mcecleanenergy.org/wp-content/uploads/2026/02/MCE-2025-12-Financial-Statements.pdf>, at pdf p. 3 (FY Q3).

<sup>114</sup> MCE, “Board Meetings” / “Meeting Archive” / “Board of Directors November 20, 2025 Minutes,” [https://mcecleanenergy.org/wp-content/uploads/2026/01/MCE-Board-Meeting-Minutes-November\\_2025.pdf](https://mcecleanenergy.org/wp-content/uploads/2026/01/MCE-Board-Meeting-Minutes-November_2025.pdf), item 8.

Board may now be better positioned to avoid similar contracting decisions — decisions that have led to poor financial results relative to its peers.

*The Grand Jury’s Conclusions About MCE’s Recent Energy Costs: MCE’s latest financial audit showed poor operating results stemming from questionable and costly short-term energy contracts signed at the peak of market prices. As noted earlier, this is at the heart of most recent public scrutiny, as these contracts, executed without meeting rules set by the Board, have resulted in financial consequences unusual for comparable CCAs. Positively trending operating income from unaudited financial statements for the first three quarters of FY 2025–26, plus the recent creation of a Finance Committee, are welcome developments — but it remains unclear whether MCE is armed with adequate professional financial governance and strategic planning resources necessary for the agency’s continuity.*

## 6. MCE’s Board Should Consider Reducing Its Size And Changing Its Composition

As discussed earlier, MCE’s Board of Directors currently has 34 members — a substantial change from the original eight when it began operating in 2010. The expanded Board is a direct result of the increase in the communities served by MCE; each community is allotted one member. Local commentators<sup>115</sup> and experts in Board governance<sup>116</sup> have observed that a 34-member Board is oddly large, cumbersome, and far from optimal. This view has been acknowledged by MCE members at recent Board meetings,<sup>117</sup> and confirmed by many of those whom we interviewed in the course of our investigation. An influential 2010 study highlighted “the Rule of Seven: every person added to a decision-making group over seven reduces decision effectiveness by 10 percent” — and the study cautioned that even when a larger group is necessary, “organizations trying to make important decisions should limit the size of the group as much as possible.”<sup>118</sup> A 2014 *Wall Street Journal* article, discussing a study conducted by the

---

<sup>115</sup> Dick Spotswood, “MCE should reconsider board’s structure” (Nov. 1, 2025) *Marin Independent Journal*, <https://www.marinij.com/2025/11/01/dick-spotswood-mce-should-reconsider-boards-structure/>; Commentary, Marin Voice, “Leadership needs to make some changes at MCE” (Feb. 4, 2026), *Marin Independent Journal*, <https://www.marinij.com/2026/02/04/marin-voice-ceo-needs-to-make-some-changes-at-mce/>.

<sup>116</sup> See, e.g., Errol Biggs, “Best board size for optimal performance” (2011) Practical Governance Group, <https://practicalgovernancegroup.com/best-board-size-optimal-performance/>; The Diligent team, “Best practices: Board size and corporate governance” (Sept. 25, 2017) Diligent, <https://www.diligent.com/resources/blog/best-practices-board-size-and-corporate-governance>; Erin Walczewski, “Too Small, Too Big, Just Right: The Goldilocks Size for a Nonprofit Board” (Dec. 21, 2022) Gooly GO, <https://www.cooleygo.com/too-small-too-big-just-right-the-goldilocks-size-for-a-nonprofit-board/#:~:text=For%20a%20new%20nonprofit%20organization,no%20greater%20than%20eleven%E2%80%9D%20directors.>

<sup>117</sup> See, e.g., MCE, “Board Meetings”/ “Meeting Archive” / “Board meeting — February 19, 2026 June 15, 2023,” <https://www.youtube.com/watch?v=vWM0Adz38I0>, at 3:06:25–3:06:40: “The fundamental problem [is] that MCE’s board is way too big.”

<sup>118</sup> Marcia W. Blenko, Michael C. Mankins, and Paul Rogers, *Decide & Deliver: 5 Steps to Breakthrough Performance in Your Organization* (2010 Harv. Bus. Rev. Press, Boston), p. 88. The report continued: “Of course, a larger group may sometimes be necessary to ensure buy-in. But organizations trying to make important decisions should limit the size of the group as much as possible.” *Ibid.* See also, e.g., Worklytics (Jan. 23, 2026) “12 Meeting Effectiveness Metrics to Improve Productivity (With Examples),” <https://www.worklytics.co/blog/top-12-metrics-for-effective-meetings> (“Research indicates that the ideal meeting size is somewhere between 3 and 8 participants. Larger meetings tend to turn into information-sharing sessions and allow for far less individual participation.”)

governance research firm GMI Ratings, reported “more effective oversight of management with a smaller board,” and “[s]mall boards are more likely to dismiss CEOs for poor performance — a threat that declines significantly as boards grow in numbers.”<sup>119</sup>

Compared with its peer CCAs, MCE’s Board is more than double the average size of 14.6 members. Although we conclude that the Board is too large, we refrain from making a specific recommendation concerning its size because, we conclude, this matter should be the focus of the Board itself (possibly in the context of the upcoming governance review), and undertaken only after the Board has begun to reassert its authority by addressing the other internal deficiencies outlined in this report. As long as the Board remains its current size, it must find a way to make each meeting maximally efficient and prioritized in order to afford meaningful oversight by 34 members in the allotted meeting time.

<b>Number of Board Directors or Commissioners at Top-10 CCAs</b>	
<b>CCA</b>	<b># Directors/ Commissioners</b>
MCE	34
Clean Power Alliance	38
San Diego Community Power	7
Ava Community Energy	18
San Jose Clean Power	11
Silicon Valley Clean Energy	13
Orange County Power Authority	5
Peninsula Clean Energy	23
Clean Power SF	5
Sonoma Clean Energy	11
<b>Peer CCA Average</b>	<b>14.6</b>

Caption: Comparison of Board Size at MCE compared with Top-10 CCA Peers.  
Source: Website of each CCA.

A related issue, raised multiple times in the context of our interviews, is that MCE’s Board members are busy, locally-elected officials, with other responsibilities. Some members may sit on the Board because they wish to encourage renewable energy, but lack both sophisticated financial and energy expertise, and the time required to execute fiduciary duties attendant to governing such a complex and technical enterprise. A contributing key challenge is turnover: In a given year, many Board members cycle off, and are replaced by new members. For example, in 2025, the Board lost, and absorbed, 15 members.<sup>120</sup> Although MCE’s staff provides a Board orientation session<sup>121</sup> for new members each year, that presentation affords only a broad overview of the agency, its customer programs, and how MCE purchases and delivers energy to

<sup>119</sup> Joann S. Lublin, “Smaller Boards Get Bigger Returns” (Aug. 26, 2014) *The Wall Street Journal*, <https://www.wsj.com/articles/smaller-boards-get-bigger-returns-1409078628>.

<sup>120</sup> By comparing the November 2024 and 2025 Board meetings minutes (see MCE, “Board Meetings” / “Meeting Archive,” <https://mcecleanenergy.org/board-meetings/>) we count 15 new members on the 2025 roster who were not on the 2024 roster.

<sup>121</sup> E.g., MCE, “Meeting Archive” / “Board Member Orientation February 20, 2025 Meeting Packet,” <https://mcecleanenergy.org/wp-content/uploads/2025/02/MCE-Board-Meeting-Packet-February-2025.pdf>.

customers. Significantly, as observed earlier (text and accompanying fns. 41–43), it does not sufficiently address or stress active governance by Board members.

Yet MCE competes in a market with sophisticated traders when it purchases electricity and trades renewable energy certificates / credits, and therefore needs Board members who are able to provide (or who can be educated to provide) corresponding focused *governance*. A 2009 Marin County Civil Grand Jury report, issued before MCE began operating, presciently questioned whether Board members would have “the professional expertise to compete in what has been a historically volatile and highly competitive business.”<sup>122</sup> The same report predicted that “MCE will not be a primary concern” for Board members because they are “elected to govern other local entities.” The report opined: “This is not to say that they will not be diligent, but it does say that their already busy schedules will become busier.”<sup>123</sup> True to that prediction, Board member absences at monthly full Board meetings (when neither the member nor alternate attended), where crucial voting takes place, have averaged 25 percent over the past year. (See table) In such an environment, Board members must necessarily rely on staff and management to fully disclose information without misdirection or obfuscation. For its part, management must clearly record and receive Board direction; faithfully execute Board policy decisions; and communicate in a way that can be understood by those not steeped in the technical minutiae of the energy market.

<b>MCE Board of Director Meeting Absences (when neither the member nor the alternate attended)</b>				
<b>Meeting Date</b>	<b># Absent Full Board (n=34)</b>	<b>% Absent Full Board</b>	<b># Absent Marin Directors (n=12)</b>	<b>% Absent Marin Directors</b>
2/20/2025	10	29%	4	33%
3/20/2025	5	15%	2	17%
4/17/2025	8	24%	2	17%
5/15/2025	10	29%	3	25%
7/17/2025	12	35%	5	42%
9/18/2025	12	35%	0	0%
10/16/2025	13	38%	5	42%
11/20/2025	3	9%	1	8%
1/15/2026	6	18%	4	33%
2/19/2026	6	18%	2	17%
3/19/2026	11	32%	4	33%
4/16/2026	6	18%	2	17%
	<b>Average</b>	<b>25%</b>		<b>24%</b>

Caption: MCE Board Meeting Absences — 2025–April 2026. Source: MCE website meeting archives, <https://mcecleanenergy.org/board-meetings/>.

As previously observed, our review of MCE Board and committee meetings reveals that some members have, in recent months, invested considerable time and energy in their effort to fulfill their fiduciary and oversight duties. Yet, it is not apparent to us that all Board members endorse

<sup>122</sup> Marin County Civil Grand Jury (Dec. 2, 2009) “Marin Clean Energy: Pull the Plug,” p. 5.

<sup>123</sup> *Id.* at p. 13.

such an approach to the role. A February 2026 editorial in the *Marin Independent Journal* focused on that problem, noting: “Last year, in response to criticism of MCE’s management, one director said the questions were coming from small-town members who were not as busy as their colleagues who have other governmental responsibilities. That [referring to being busy] is exactly the problem.”<sup>124</sup> In other words, as the editorial implied, the Board’s oversight is compromised by its large membership; the fact that many of its members are spread thin and often cannot commit sufficient time and energy; and most Board members lack professional experience in the complexities of energy procurement and related finance.

We find MCE at a juncture, and facing a variety of views on how to proceed: On one end of the spectrum, some Board members appear eager (or at least willing) to roll up their sleeves and more actively govern and exercise oversight — and to suggest management reassess its interactions with the Board. On the other end of the spectrum, some Board members appear comfortable allowing management to continue to exercise authority to, in essence, govern the Board. Dramatically exemplifying the latter stance — and apparently broadcasting a message of intolerance to internal criticism — the Board Chair has suggested that some members who have encouraged the full Board to undertake a greater oversight role should consider resigning from the Board if they cannot be “proud” of the Board as it stands.<sup>125</sup>

As observed earlier, the Board as a whole has endorsed, and is in the midst of a governance assessment project that will be completed well after the filing of this report. If it is to address the shortcomings we have noted, that assessment will need to (1) be *robust* (covering all aspects of MCE — the Board, management, and staff), (2) *conducted by a neutral and widely-respected evaluator*, and (3) *consider and make recommendations about the size and composition of the Board* — changes that may require amendments to MCE’s foundational and organizational documents.<sup>126</sup> We hope the Board will, in connection with that project, eventually reach appropriate consensus about the scope and extent of its governance role. In the meantime, we think the Board should more actively govern and exercise oversight, consistent with the suggestions of some critics and Board members, and demand from management transparency, and compliance with required procedures.

---

<sup>124</sup> Marin IJ Editorial Board, “MCE right to remove overstatement from messaging” (Feb. 1, 2026), <https://www.marinij.com/2026/02/01/editorial-mce-right-to-remove-untrue-statement-from-branding/>.

<sup>125</sup> At MCE’s November 2025 Board meeting, the Chair of the Board, addressing members who had voiced constructive criticism and advocated for enhanced financial oversight, stated: “Right now it feels like we’re divided, and we shouldn’t be serving, being divided.... Our community members expect us to serve ... and be respectful of each other [and] ... staff.” So I’m hoping that for the rest of this meeting we can also continue to be respectful of each other in the process.” MCE, “Meeting Archive” / “Board of Directors November 20, 2025 Video,” [https://www.youtube.com/embed/s79p9jam\\_4](https://www.youtube.com/embed/s79p9jam_4), at 23:30–24:21, italics added. Later in the same meeting, the Chair elaborated on her view that some members should not remain as Board members: “I’m really disheartened, saddened how the Board direction is going.... [W]e’re serving at the will of our council because they have appointed us to serve on these boards ... and ... ultimately ... if we’re gonna serve on the Board, we should be proud of the Board we serve on, and if it doesn’t represent what we stand for or our communities then we should let our council know that that doesn’t represent, and that we shouldn’t be a part of that board.” *Id.* at 4:22:43–4:23:26, italics added.

<sup>126</sup> Knowledgeable persons we interviewed suggested town managers might be tasked with operational details about CCAs. This approach would require revision of MCE’s JPA.

***The Grand Jury’s Conclusions About Board Size and Composition:** A smaller and more technically oriented Board (much like a board of a public company this size) is likely to be more effective for the future of MCE. The unwieldy nature of a Board with 34 members has presented management with both educational challenges and opportunities to consolidate control. The anticipated governance assessment project might provide useful guidance — but only if that assessment is robust, and conducted by a neutral and widely-respected evaluator.*

## **7. MCE Management Has Been Insufficiently Transparent With Its Board**

Based on our review of recent extensive MCE Board and committee meetings, and statements from persons we have interviewed, we find that MCE management has been insufficiently transparent — and indeed, often evasive — in its communications with and to MCE’s Board. Management too frequently (1) provides incomplete responses to Board members’ questions and requests for information; (2) obfuscates or conflates issues and details; (3) fails to inform the Board of important actions as required, or informs the Board late or after-the-fact; and (4) limits legitimate inquiries and comments from Board members who question management. This behavior markedly limits the Board’s ability to exercise its fiduciary oversight duties to MCE’s ratepayers. We provide several recent examples (among others) below.

- **Failure to provide complete responses to Board members’ questions and requests for information**
  - At the November 20, 2025, Board meeting, a member requested more information regarding the one-to-five-year energy contracts signed in FY 2024–25, worth about \$200 million. The same Board member made the same request at the January 5, 2026 Executive Committee meeting, and again at the February 6, 2026 Technical Committee meeting.<sup>127</sup> As of early May, the Board member still had not received the requested information.
  - When a Board member asked at the February 2, 2026, Executive Committee meeting about the extent of natural gas purchases related to MCE’s “Resource Adequacy” contracts signed in 2022 and 2025, management evaded the question, and instead referred to the fact that MCE’s Power Content Label is not required to include those types of contracts.<sup>128</sup>
  - MCE’s six-member Technical Committee meets monthly in public. Its scope is “to explore, discuss and provide direction or approval on issues related to electricity supply, distributed generation, greenhouse gas emissions, energy efficiency, procurement risk management and other topics of a technical

---

<sup>127</sup> MCE, “Board Meetings” / “Meeting Archive” / “Technical Committee February 6, 2026 Video,” <https://www.youtube.com/watch?v=L1Nek55DYLU>, at 1:18:25–1:19:10 (describing the three requests).

<sup>128</sup> MCE, “Board Meetings” / “Meeting Archive” / “Executive Committee February 2, 2026 Video,” <https://www.youtube.com/watch?v=tZhnn8fa7vU>, at 22:39–23:33. This response was preceded and followed by the statement that management “would be happy to talk to [the Director] about that afterward” [meaning after the Board meeting], and the comment, “I think we have already covered [the resource adequacy contracts] in detail.” We have seen these kinds of statements (appearing to both put off a direct answer, and redirect the conversation) numerous times during Board meetings, in response to direct questions.

nature.”<sup>129</sup> Yet MCE limits the sharing of requested key aspects of energy contracts with these Board members,<sup>130</sup> *even after these contracts have been entered into*, on the ground that *public* release of this sensitive information should be avoided to protect MCE’s competitive market interests.<sup>131</sup> However, we have been informed that MCE reports about these contracts in greater detail publicly to the California Energy Commission — listing specific power plants, suppliers, and resource characteristics not shared with its own Board, which sees such contracts only with such information omitted.<sup>132</sup>

- **Obfuscating or conflating issues and details**

- MCE management obfuscated information about a key rules amendment to remove the Board’s authority to hire the General Counsel. For reasons explained earlier (text and accompanying fn. 47), and described in detail in the Appendix, *we question whether the Board was fully aware of the significant change that it made when approving that key amendment.*
- Regarding one of the main types of renewable energy contracts that MCE enters into, MCE management has stated that its costly “Product Content Category 1” (PCC 1) contracts<sup>133</sup> (see definition in fn. 65) are “bundled”<sup>134</sup> — meaning, these energy contracts are for renewable power accompanied by a “Renewable Energy Certificate” (REC) (see definition in fn. 65), which is required in order for MCE to claim it is providing a cleaner (greener) product to the public. Yet, as discussed earlier (see text and accompanying fns. 77–83), knowledgeable observers associated with the energy industry have characterized such purchases as “attribute-only” contracts on the grounds that, under these contracts, only the REC “greenness” claim — and no actual energy — is purchased. In this regard, an industry expert has told the Board: “MCE does not pay for the energy; they don’t schedule the energy ... and they have to hedge the energy by buying system

---

<sup>129</sup> MCE, “Board Meetings” / “Meeting Archive” / “Board of Directors September 18, 2025 Meeting Packet,” <https://mcecleanenergy.org/wp-content/uploads/2025/09/MCE-Board-Meeting-Packet-September-2025.pdf>, at pdf p. 15.

<sup>130</sup> MCE, “Meeting Archive” / “Executive Committee January 5, 2026 Meeting Packet” [https://mcecleanenergy.org/wp-content/uploads/2025/12/MCE-Executive-Committee-Meeting-Packet\\_January\\_2026.pdf](https://mcecleanenergy.org/wp-content/uploads/2025/12/MCE-Executive-Committee-Meeting-Packet_January_2026.pdf), item 5.C.2 (“Corrections to Marin IJ & Misinformation”), at pdf p. 10: “MCE is a public entity, subject to the Brown Act and is therefore required to make public all information presented to its Board and Standing Committees. Unlike our private competitors, we are not able to conduct private meetings with the Board or its Standing Committees to discuss market-sensitive information.”

<sup>131</sup> Cal. Gov. Code §§ 54950–54963.

<sup>132</sup> MCE, “Written Public Comment Submissions” / “Public Comment Letter from Nick Pappas — Distributed 2.19.26,” <https://mcecleanenergy.org/wp-content/uploads/2026/02/Public-Comment-from-Nick-Pappas-Distributed-2.19.26.pdf>, at pdf p. 6.

<sup>133</sup> These contracts cost \$179 million in FY 2024–25, and \$131 million in the FY 2025–26 budget. MCE, “Board Meetings” / “Meeting Archive” / “Board Meeting Retreat, October 16, 2025 Meeting Packet,” <https://mcecleanenergy.org/wp-content/uploads/2025/10/MCE-Board-Retreat-Meeting-Packet-October-2025.pdf>, at pdf p. 24 (regarding FY 2024–25) and MCE, “Board Meetings” / “Meeting Archive” / “MCE Executive Committee Meeting Supplemental Packet: Monday, March 2, 2026,” [https://mcecleanenergy.org/wp-content/uploads/2026/02/MCE-Executive-Committee-Meeting-Supplemental-Packet-March\\_2026.pdf](https://mcecleanenergy.org/wp-content/uploads/2026/02/MCE-Executive-Committee-Meeting-Supplemental-Packet-March_2026.pdf), at pdf p. 210 (regarding the FY 2025–26 budget).

<sup>134</sup> MCE, “Board Meetings” / “Meeting Archive” / “Board of Directors October 16, 2025 Meeting Packet,” <https://mcecleanenergy.org/wp-content/uploads/2025/10/MCE-Board-Retreat-Meeting-Packet-October-2025.pdf>, pdf p. 37.

power [i.e., including from fossil fuels] in the market.”<sup>135</sup> When industry observers have criticized MCE for regularly entering into such expensive contracts as a key part of its portfolio, MCE management has often merely characterized such “PCC 1” contracts as “the gold standard.”<sup>136</sup> Based on our own review, we are not satisfied that MCE has directly addressed these observers’ critiques of such contracts.

- Two additional categories of energy contracts, “Financial Hedges” and “Resource Adequacy” (RA), constitute MCE’s other two large energy costs — \$288 million and \$159 million, respectively, in FY 2024–25; and \$267 million and \$146 million, respectively, in the FY 2025–26 budget.<sup>137</sup> Energy industry experts (including, most recently, the Sierra Club) have asserted that MCE’s hedges and RA purchases are often sourced from fossil fuel suppliers.<sup>138</sup> Indeed, the California Public Utility Commission’s latest report shows MCE as supplying more fossil fuel through its RA contracts than any other northern California CCA; but only 16 percent of MCE’s RA comes from clean sources, compared to more than 30 percent for most of its Bay Area peers.<sup>139</sup> These purchases are technically neither part of MCE’s energy portfolio, nor included in MCE’s advertised Power Content Label (and hence not considered regarding MCE’s “green energy” claims). However, because MCE does not explicitly acknowledge the nature of these transactions, Board members may be unaware of the extent to which fossil fuel energy may, under some circumstances, be added to the grid through MCE’s purchases.

---

<sup>135</sup> MCE, “Board Meetings”/ “Meeting Archive” / “Technical Committee, March 6, 2026 Video,” <https://www.youtube.com/watch?v=1YTstewCJk&t=1723s> at 1:17:23–1:17:33. (Note also the entire comment and explanation, at 1:16:08–1:19:10.)

<sup>136</sup> MCE, “Board Meetings”/ “Meeting Archive” / “MCE Technical Committee Meeting March 6, 2026 Video,” <https://www.youtube.com/watch?v=1YTstewCJk&t=1723s>, at 1:42:50–14:42:55.

<sup>137</sup> See sources cited in fn. 133.

<sup>138</sup> MCE, “Written Public Comment Submissions” / “Public Comment Letter from Nick Pappas — Distributed 2.19.26,” <https://mcecleanenergy.org/wp-content/uploads/2026/02/Public-Comment-from-Nick-Pappas-Distributed-2.19.26.pdf>, at pdf p. 6 (“Hedges and RA are the key channels through which MCE maintains financial relationships with fossil energy suppliers, with correspondingly important environmental policy considerations which are not currently being discussed with the Board”). The Sierra Club asserts similarly. Regarding RA, it says: “We understand [based on MCE’s FY 2026–27 budget that it] ... continues to spend approximately half of its budget on fossil energy products, including both unspecified hedge energy (\$225 million) and RA contracts (\$105 million) which are primarily provided by natural gas suppliers.” The Sierra Club characterizes MCE’s “energy hedges” as “simply gas transactions which are structured to evade state reporting requirements for gas energy purchases. Under this structure, MCE enters a fixed price arrangement with a broker; in turn, the broker enters into a contract with a natural gas power plant to provide energy and cover their exposure in the market. While these transactions are not inherently with gas suppliers, that is the typical course of action for the ‘Peak’ and ‘Offpeak’ products shown in MCE’s state reports. MCE has entered into dozens of these ‘hedge’ transactions in recent years.” MCE, “Written Public Comment Submissions” / “Public Comment Letter from Julia Dowell — Distributed 4.15.26,” <https://mcecleanenergy.org/wp-content/uploads/2026/04/Public-Comment-Letter-Julia-Dowell-4.15.26.pdf>, at pdf pp. 4–5.

<sup>139</sup> California Public Utilities Commission Energy Division, “2023 Resource Adequacy Report” (Aug. 2025), <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/2023-resource-adequacy-reportv2.pdf#page=70>, at pdf p. 70. Citing the same report, the Sierra Club observes: “Sonoma Clean Power, a neighboring CCA formed several years after MCE, met 45% of its RA with clean resources in the same year; CleanPower SF, Central Coast Community Energy, Peninsula Clean Energy, and Silicon Valley Clean Energy all doubled MCE’s performance.” MCE, “Written Public Comment Submissions” / “Public Comment Letter from Julia Dowell — Distributed 4.15.26,” <https://mcecleanenergy.org/wp-content/uploads/2026/04/Public-Comment-Letter-Julia-Dowell-4.15.26.pdf>, at pdf p. 5.

- In developing meeting agendas, management often provides much information about seemingly less significant items that consume significant time, and leaves less opportunity to address more important items. For example, at the October 2025 Board retreat meeting, staff provided an hour-long (plus continuation after lunch not on the video) detailed presentation about Virtual Power Plants (VPPs)<sup>140</sup> that, now and through at least 2028, will comprise only one-quarter of one percent of energy provided at peak hours.<sup>141</sup>
- **Failure to inform the Board of important actions in a timely manner — or doing so after-the-fact**
  - In June of 2024, MCE’s then Chief Financial Officer (CFO) departed to take a position at another CCA (Sonoma Clean Power).<sup>142</sup> After more than a year of operating without a CFO, MCE’s Finance Vice President was promoted to the vacant CFO position in mid-October 2025. Yet the Board was not formally notified of that critical promotion, and many learned of it only by reviewing the *staff roster* embedded in the Minutes of the October 16, 2025 Board meeting: a roster of Board meeting attendees, posted approximately one week after the October meeting, showed the former Finance Vice President’s title had changed to CFO.<sup>143</sup> After the CEO formally announced the appointment a month later at a Board meeting, one member asked: “In light of the public scrutiny and amidst calls for greater transparency and accountability, why was someone promoted into the CFO role *without prior consultation* with the Board and without running an open search process?”<sup>144</sup> In response, the CEO ignored the inquiry concerning absence of *consultation* and, without explaining the lack of communication, simply asserted that management had followed the policy set by the Board several years earlier (which delegated staff hiring and promotions to the CEO).<sup>145</sup>
  - At a February 2026 budget workshop Board meeting, when presenting the proposed FY 2026–27 staff compensation budget line-item, the Board learned that merit and promotional salary increases had been approved by the CEO on January 1, 2026, affecting the FY 2026–27 budget prior to Board approval of that budget.<sup>146</sup> The proposed staff compensation budget, including proposed new hires, reflected a substantial 12.5 percent increase, from \$29.5 million approved in FY 2025–26 to \$33.2 million proposed for FY 2026–27, and averaged about \$277,000 over the 120 MCE full-time positions.<sup>147</sup> This budget front-running was

---

<sup>140</sup> MCE, “Board Meetings”/ “Meeting Archive” / “Board Meeting Retreat, October 16, 2025 Meeting Packet,” <https://mcecleanenergy.org/wp-content/uploads/2025/10/MCE-Board-Retreat-Meeting-Packet-October-2025.pdf>, item 8.

<sup>141</sup> MCE, “Board Meetings”/ “Meeting Archive” / “Board Meeting Retreat, October 16, 2025 Video,” [https://www.youtube.com/embed/p3E1\\_5z3j0o](https://www.youtube.com/embed/p3E1_5z3j0o), at 3:25:45.

<sup>142</sup> Sonoma Clean Power, “Sonoma Clean Power Welcomes Industry Leader Garth Salisbury as New CFO,” <https://cal-cca.org/sonoma-clean-power-welcomes-industry-leader-garth-salisbury-as-new-cfo/>.

<sup>143</sup> MCE, “Board Meetings”/ “Meeting Archive” / “Board Meeting Retreat, October 16, 2025 Minutes,” [https://mcecleanenergy.org/wp-content/uploads/2025/11/MCE-Board-Retreat-Meeting-Minutes-October\\_2025.pdf](https://mcecleanenergy.org/wp-content/uploads/2025/11/MCE-Board-Retreat-Meeting-Minutes-October_2025.pdf).

<sup>144</sup> MCE, “Meeting Archive” / “Board of Directors November 20, 2025 Video,” [MCE Board Meeting November 20, 2025](https://mcecleanenergy.org/wp-content/uploads/2025/11/MCE-Board-Meeting-November-20-2025.pdf), at 56:31–57:55 (announcement) & 1:03:21–1:03:40 (Board member question).

<sup>145</sup> *Id.* at 1:03:40–1:04:30.

<sup>146</sup> MCE, “Meeting Archive” / “Board of Directors February 11, 2026 Special Meeting,” <https://mcecleanenergy.org/wp-content/uploads/2026/02/MCE-Board-Budget-Workshop-2-Meeting-Packet-February-2026.pdf>, at pdf p. 58. (MCE’s fiscal year runs from April 1 through March 31.)

<sup>147</sup> Calculated as follows: \$33.2 million (*ibid.* at p. 58) covering MCE staff of 120 (*id.* at p. 60).

announced, ironically, while discussing how to find cost savings and cut MCE's rates in order to compete with PG&E's recent rate cuts that leave an average MCE customer with substantially higher bills than PG&E charges.

- Although MCE's internal staff includes a ten-member group of power resource professionals,<sup>148</sup> MCE also has for 16 years contracted with a small energy consulting firm, Pacific Energy Advisors (PEA),<sup>149</sup> to augment this staff in various ways, including energy product procurement and power contract negotiation.<sup>150</sup> We have been told, in our interviews, that PEA has predominant influence — even over MCE's own internal staff professionals — in these matters. MCE management has been granted authority to select consultants such as PEA, and yet the full Board has little insight concerning that contract. Neither has the Board nor its Technical Committee been consulted about whether to issue a Request for Proposal concerning PEA's services, so that the Board might be able to periodically evaluate this strategically important contracting decision that goes to the core of MCE's main function.
- **Limiting inquiries and comments from Board members who attempt to question management**
  - In late-January 2025, MCE's Executive Committee ("ExCom") Chair sent an email to the CEO with a list of financial topics and reports for future committee agenda discussions compiled by a four-person subset of the then 11-member committee.<sup>151</sup> The ExCom Chair clarified that the list was "not a set of demands but rather is meant to be a collaborative next step in an ongoing dialogue of what would be useful for ExCom to understand about the agency we're tasked with supporting and providing oversight of on behalf of our cities and residents."<sup>152</sup> The CEO responded that some items listed were out-of-scope or would consume too much staff time.<sup>153</sup> In addition, the CEO (in conjunction with General Counsel) cited potential violations of the Brown Act (the open public meetings law)<sup>154</sup> — even though the subgroup of requesting directors did not create a quorum — on the ground that the four-person discussion might *possibly* (and inadvertently) lead to a prohibited serial communication under the Act.<sup>155</sup> By this, and for these stated reasons, the ExCom's request was not considered.
  - In a November 2025 email sent to all Board members, management admonished certain Board members for asking questions that any fiduciary who takes an

---

<sup>148</sup> MCE, "Board Meetings" / "Meeting Archive" / "MCE Board Orientation Meeting Packet February 20, 2025," [https://mcecleanenergy.org/wp-content/uploads/2025/02/MCE-Board-Orientation-Meeting-Packet\\_February\\_20\\_2025.pdf](https://mcecleanenergy.org/wp-content/uploads/2025/02/MCE-Board-Orientation-Meeting-Packet_February_20_2025.pdf), at pdf p. 49.

<sup>149</sup> PEA, <http://pacificea.com/>. PEA serves numerous other CCAs in addition to MCE. See <http://pacificea.com/clients/> (listing, among 11 other clients, Silicon Valley Energy, Clean Power SF, and Sonoma Clean Power).

<sup>150</sup> PEA, <http://pacificea.com/clients/marin-clean-energy-mce/> (listing services provided to MCE). See also MCE, "Board Meetings" / "Meeting Archive" / "MCE Board Meeting November 20, 2025 Video," [https://www.youtube.com/embed/s79p9jam\\_4](https://www.youtube.com/embed/s79p9jam_4), at 1:22:09–1:45:17 (PEA presentation to the Board).

<sup>151</sup> This email, and the resulting email chain, has been shared with the Grand Jury by MCE Board members, and we have retained a copy in our files.

<sup>152</sup> See fn. 151.

<sup>153</sup> See fn. 151.

<sup>154</sup> Cal. Gov. Code §§ 54950–54963.

<sup>155</sup> See fn. 151.

oversight role seriously might pose to MCE staff — concerning, for example, audit information, financial reports, and energy cost trends. The email included an attachment entitled “Staff time allocation on board requests” listing all instances of requests from Board members over the past year. Although staff time is important, management’s email could be interpreted as an effort to reduce Board oversight, and embarrass those reasonably seeking desirable oversight information.

- We have noticed various instances at Board meetings when members’ comments have been limited by MCE’s CEO, and /or by General Counsel. We relate here just one example: At the November 2025 Board meeting, during a discussion about a “Summary of Approved Contracts,” one member voiced questions about the approval process regarding MCE’s one-to-five year energy contracts — asking who had approved; which appropriate committee had been consulted, and when, etc.<sup>156</sup> In the process, when that Board member attempted to explain to other members some relevant “background” about recent “energy costs” leading to a \$200 million increase over the prior year,<sup>157</sup> the Board member was interrupted four times by General Counsel.<sup>158</sup> After a second Board member objected to the interruptions,<sup>159</sup> the first Board member was able to complete the comments.<sup>160</sup> A third Board member then thanked the first member for that analysis, and commented that it helped “bring[] greater transparency.”<sup>161</sup> And yet, we note, this greater transparency occurred only after insistence by a few Board members — and in spite of MCE management’s efforts to curtail discussion.

***The Grand Jury’s Conclusions About How Management Interacts With the Board:***

*Managerial behavior such as we have described above inhibits, rather than facilitates, Board governance. Although we have found that MCE’s Board has often failed or declined to embrace its governance role, the driving force behind this result appears to be management’s acts, omissions, and communications.*

*Admittedly, MCE management faces a difficult challenge in working with a large Board of elected officials, many of whom lack specific energy and finance experience — and many of whom quickly rotate on and off the Board. But in order for MCE to succeed, the Board should require management to:*

---

<sup>156</sup> MCE, “Board Meetings” / “Meeting Archive” / “Board of Directors November 20, 2025 Video,” [https://www.youtube.com/embed/s79p9jam\\_4](https://www.youtube.com/embed/s79p9jam_4), at 1:11:41–1:12:22. The full discussion of this issue ranged from 1:11:41–1:21:24.

<sup>157</sup> *Id.*, at 1:14:54–1:16:58.

<sup>158</sup> *Id.*, at 1:16:59–1:17:28.

<sup>159</sup> *Id.*, at 1:17:50–1:17:58.

<sup>160</sup> *Id.*, at 1:18:01–1:19:04. The member explained that “sixty percent of these short-term contracts ... were executed in” August–October 2024, “and so in hindsight, we signed [those] ... contracts at the peak of the market. This ... is the cause of our \$200 million increase year-over-year in energy costs. And so I would like to recommend that we revisit Board Resolution 2020-04, which provides the CEO with authority to sign these short term contracts. I think we need to implement some guardrails and checkpoints to make sure we have a good handle on what is happening with our short-term contracts.” (Italics added.)

<sup>161</sup> *Id.*, at 1:19:45–1:19:57.

- (1) Work cooperatively with the Board to prioritize agendas to focus on important governance issues;*
- (2) Share difficult news early, rather than late, and actively consult regarding key staff changes, thus building trust;*
- (3) Invite — and constructively receive and respond to — valid criticism; and*
- (4) Clearly and consistently summarize pros and cons of all key decisions facing the Board, instead of providing only management’s opinion or preferred option.*

*In the meantime, the Board can require observance of MCE’s internal control rules, and update and reinforce those rules as necessary to ensure operational transparency, so that the Board may exercise its proper governance role.*

## **FINDINGS**

In light of our investigation described above, we find as follows:

- F1.** MCE’s Board as a whole has not played a sufficiently active role in key agency decisions including reviewing policies and future strategy, and setting / evaluating performance metrics for management.
- F2.** The Board needs — but in recent years has not received — adequate and independent legal advice. Having ceded approval authority over the hiring of MCE’s General Counsel to the CEO in 2023, the Board has diminished its ability to govern.
- F3.** The Board’s size and composition make it difficult for the Board to govern.
- F4.** Many Board members have — quite understandably — limited expertise regarding a large and complex company such as MCE.
- F5.** All MCE Board members are local elected officials who face competing demands on their limited time and resources; as a result, meeting attendance has often been poor, and insufficient for optimally effective governance.
- F6.** Energy contracts at the heart of MCE’s business are technical and complex. Board members face a considerable challenge to understand the costs, risks, and policy implications of MCE’s energy contracts — and the relationship between those contracts and the actual “greenness” of the electricity that MCE provides to its customers.
- F7.** The Board lacks sufficient visibility into the work of its contracted power purchasing agent and technical consultant (Pacific Energy Advisors) — an entity that has substantial influence over MCE’s business operations, and also purchases for (and advises) other CCAs in this market.
- F8.** The Board has not received from management an adequate and understandable explanation of the almost \$200 million year-over-year increase in energy costs in FY 2024–25.
- F9.** Management has at times invoked confidentiality / market competitiveness concerns when providing the Board or individual members with only limited details about energy contracts (even though greater details are publicly reported on the California Energy Commission’s website), thus impairing Board members’ contemporaneous awareness about key aspects of MCE’s business.

- F10.** Management has been, at some times and in key respects, insufficiently transparent with the Board, as it has (1) provided incomplete responses to Board members’ questions and requests for information; (2) obfuscated or conflated issues and details; (3) failed to inform the Board of important actions in a timely manner or done so after-the-fact; and (4) limited legitimate inquiries and comments from Board members who attempt to question management.
- F11.** The Board has ceded control of its own meetings by relinquishing its responsibility over the creation of meeting agendas. This has contributed to meeting inefficiency and bloated meeting packets.
- F12.** The process for amending the agency’s foundational rules — its Operating Rules and Regulations — has not been consistently and rigorously followed. As a result, the Grand Jury questions whether all relevant materials were made available to Board members and the public (in accordance with the Brown Act) in advance of the Board taking actions.
- F13.** Management has repeatedly violated key internal controls, including “Resolution 2020-04” and “authorization chain” documents, requiring consultation about, and approval of, one-to-five year energy contracts.
- F14.** MCE has grown from a small company to its significant size today, yet its foundational documents have not been amended to reflect its increased scale and complexity.

## **RECOMMENDATIONS**

In light of the discussion in the body of our report, and the findings described above, we recommend as follows:

- R1.** By September 30, 2026, MCE’s Board of Directors should review whether its current delegation of authority provides adequate oversight regarding contract approval, setting / evaluating performance metrics for senior management, and overall company strategy.
- R2.** By December 31, 2026, the Board should amend its Operating Rules and Regulations to reinstate approval authority for hiring of the CEO and General Counsel, to require Board approval for hiring all C-level employees, and to require an open, competitive process for all such hiring.
- R3.** By December 31, 2026, the Board should determine whether its current size and composition are impediments to oversight and governance.
- R4.** By December 31, 2026, the Board should revise its Operating Rules and Regulations to regain responsibility for jointly creating meeting agendas in order to improve meeting efficiency and prioritization of agenda items.
- R5.** By December 31, 2026, all of MCE’s Marin jurisdictions (and preferably, all 38 jurisdictions covered by MCE) should implement a process by which its appointed Board member (or, in that person’s absence, the designated alternate member) commits to attending each regular Board meeting.
- R6.** By December 31, 2026, all of MCE’s Marin jurisdictions (and preferably, all 38 jurisdictions covered by MCE) should reassess their appointments of chosen Board members to prioritize those with the most extensive financial and energy expertise.

- R7.** By March 31, 2027, the MCE Board should evaluate whether changes to Board composition or access to energy expertise would improve oversight and governance, and if necessary, consider amending its Joint Powers Agreement to allow the governing body of each jurisdiction to appoint and designate a Board member (or alternate Board member) who is not a member of its governing body, but who has strong energy industry experience and can commit to serve for multiple years.
- R8.** By December 31, 2026, the Board should review and assess the value to ratepayers of certain costly contracts that may serve primarily to allow MCE to claim a higher renewable Power Content Label.
- R9.** By December 31, 2026, the MCE Board should hire an impartial, outside auditor to provide a comprehensive review of energy contracts executed in FY 2024–25, including review of cost, capacity, length of contract, fuel source, facility location and approval processes, in order to avoid future similar recurring contract variances and overruns.
- R10.** By December 31, 2026, the Board should conduct an internal review concerning the apparent April 2023 elevation of then-Associate General Counsel to the position of General Counsel, in order to determine whether that elevation occurred consistently with MCE’s then-operative Operating Rules and Regulations.
- R11.** Initially by December 31, 2026 and periodically thereafter, the Board should direct management to issue a Request for Proposal concerning (1) services provided by independent energy consultants, and (2) services of all other consultants when the duration or cost exceeds a *de minimis* amount (as defined by the Board).
- R12.** By December 31, 2026, the Board should review its August 17, 2023 amendment of its Operating Rules and Regulations to determine if, in doing so, (1) the Board received adequate and independent legal advice, and (2) whether MCE and the Board complied with the public inspection requirements of the Brown Act, California’s open public meetings law.
- R13.** By March 31, 2027, the Board should review its existing policies and internal controls to determine whether they are consistent with and adequate for a company approaching one billion dollars in revenue.

## REQUIRED RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requires responses from the following governing bodies within 90 days:

- MCE Board of Directors: (F1–F14, R1–R4, R7–R13)
- Marin County Board of Supervisors: (F4–F5, R5–R6)
- City Council: City of Belvedere (F4–F5, R5–R6)
- City Council: City of Larkspur (F4–F5, R5–R6)
- City Council: City of Mill Valley (F4–F5, R5–R6)
- City Council: City of Novato (F4–F5, R5–R6)
- City Council: City of San Rafael (F4–F5, R5–R6)
- City Council: City of Sausalito (F4–F5, R5–R6)
- Town Council: Town of Corte Madera (F4–F5, R5–R6)
- Town Council: Town of Fairfax (F4–F5, R5–R6)
- Town Council: Town of Ross (F4–F5, R5–R6)

- Town Council: Town of San Anselmo (F4–F5, R5–R6)
- Town Council: Town of Tiburon (F4–F5, R5–R6)

The governing bodies listed above should be aware that the comment or response of the governing body must be conducted in accordance with Penal Code section 933, subdivision (c), and subject to the notice, agenda and open meeting requirements of the Brown Act.

## **INVITED RESPONSES**

- Contra Costa County Board of Supervisors: (F4–F5, R5–R6)
- Napa County Board of Supervisors: (F4–F5, R5–R6)
- Solano County Board of Supervisors: (F4–F5, R5–R6)
- City Council of Benicia: (F4–F5, R5–R6)
- City Council of Concord: (F4–F5, R5–R6)
- City Council of El Cerrito: (F4–F5, R5–R6)
- City Council of Fairfield: (F4–F5, R5–R6)
- City Council of Hercules: (F4–F5, R5–R6)
- City Council of Lafayette: (F4–F5, R5–R6)
- City Council of Martinez: (F4–F5, R5–R6)
- City Council of Napa: (F4–F5, R5–R6)
- City Council of Oakley: (F4–F5, R5–R6)
- City Council of Pinole: (F4–F5, R5–R6)
- City Council of Pittsburg: (F4–F5, R5–R6)
- City Council of Pleasant Hill: (F4–F5, R5–R6)
- City Council of Richmond: (F4–F5, R5–R6)
- City Council of San Pablo: (F4–F5, R5–R6)
- City Council of San Ramon: (F4–F5, R5–R6)
- City Council of Vallejo: (F4–F5, R5–R6)
- City Council of Walnut Creek: (F4–F5, R5–R6)
- Town Council of Danville: (F4–F5, R5–R6)
- Town Council of Moraga: (F4–F5, R5–R6)
- State of California Senate — Energy, Utilities and Communications Committee: (F1, F6-F9, F12, F14, R1, R7–R9, R11, R13)
- MCE CEO (F1–F14)

Note: At the time this report was prepared information was available at the websites cited.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury *not* contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California Legislature has stated that it intends Penal Code section 929 to encourage full candor in testimony in Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

## APPENDIX — Regarding the Hiring of General Counsel

The following timeline documents an investigation performed by the Grand Jury to understand the process by which (1) MCE’s current General Counsel assumed that role in the organization in or about April 2023, and thereafter (2) MCE’s Board amended its Operating Rules and Regulations to grant to the CEO, for the first time, authority to hire General Counsel without Board approval.

We undertake this detailed review for overlapping reasons. First, the timeline serves as an example illustrating how (as we have observed in other circumstances) MCE’s management and CEO often operates with respect to the Board — by engaging in a course of conduct that tends to obfuscate rather than highlight key issues. Second, the timeline documents significant findings in our report related to a key problem that, we have found, has impaired the Board’s ability to govern — the Board needs, but in recent years has not received, adequate independent legal advice.

All documents referred to in this timeline are available on MCE’s website as of this writing, with URL addresses as indicated. We begin with the facts, and end with our observations and conclusions.

### The Rules for Hiring General Counsel Include Board Approval

1. MCE’s original “Operating Rules and Regulations” (OR&R) is posted on its website at <https://mcecleanenergy.org/wp-content/uploads/operating-rules-regulations-asammended.pdf>. This original OR&R document lists in its article VII, section 2, various important activities over which the Board exercises control. This particular provision of the OR&R specifies, as a matter that “shall be approved only by a majority vote of the full membership of the Board,” the following: “b. The hiring of an Executive Director *and General Counsel.*” *Id.* at pdf p. 4, italics added. (This undated document shows the subtitle “As Amended.” An MCE memorandum describes this version of the OR&R as having been “adopted in March 2009.”) <https://www.mcecleanenergy.org/wp-content/uploads/2023/06/MCE-Board-Meeting-Packet-June-2023.pdf>, at pdf p. 84, fn. 2.)

2. In addition to its foundational OR&R, MCE also periodically adopts various resolutions that express Board policy consistent with the OR&R. Among many such resolutions passed over the years is (adopted in September of 2018) “Resolution 2018-09,” <https://mcecleanenergy.org/wp-content/uploads/2018/10/Resolution-2018-09-Delegating-Auth.-of-Setting-Comp.-Tenure-Appt.-and-Cond.-of-Emplymnt-to-ExCom-and-CEO-1.pdf>. Resolution 2018-09 provides, in its section 1: “The Board hereby delegates to MCE’s ... CEO ... in consultation with the Executive Committee, the authority to prescribe the compensation of all MCE officers, other than the CEO, and provide the number, compensation, tenure, appointment and conditions of employment of MCE employees, provided that such prescription and provision be consistent with the Board-approved budget.” *Id.* at pdf p. 1. As will become more apparent shortly, we question whether, in light of the *fundamental and specific* OR&R provision requiring full Board approval, which expressly names General Counsel, any inconsistent or ambiguous Board resolution can control

when hiring (or promoting, or advancing) General Counsel. More specifically, Resolution 2018-09, quoted above, is both *subservient to the OR&R*, and *general* in its language (“appointment ... of MCE employees”), and its *implementation with respect to General Counsel* would appear to require amendment to the otherwise controlling OR&R.

### **General Counsel is Hired Without Board Approval**

3. As of February 16, 2023, Catalina Murphy was consistently shown on memoranda to the Board (in meeting packets), and in minutes of Board meetings, as “Associate General Counsel.” See <https://www.mcecleanenergy.org/wp-content/uploads/2023/02/MCE-Board-Meeting-Packet-February-2023.pdf>, at pdf pp. 18 and 26. Yet, as of April 20, 2023, Catalina Murphy is shown in similar memoranda as “General Counsel.” See (<https://www.mcecleanenergy.org/wp-content/uploads/2023/04/MCE-Board-Meeting-Packet-April-2023.pdf>, at pdf pp. 45 and 63. Based on our review of MCE’s Board meeting Minutes *circa* 2021–early 2023, it appears this position had been vacant for at least eight months. At this time, approval of the hiring of General Counsel was still subject to a “majority vote of the full membership of the Board” under the OR&R quoted in paragraph #1 above. However, we have found no evidence indicating any Board vote of approval concerning this hiring; neither have we found any announcement (or entry in the Minutes) about this change in status. Nor have we found any evidence that the Executive Committee was consulted about the change in General Counsel, as would have been required by Resolution 2018-09, quoted in paragraph #2 above.

### **After Missing Board Approval, a Change in the Rules — Step 1: Highlight “Minimal Changes,” With No Mention of General Counsel**

4. The June 15, 2023, Board Meeting Packet included proposed amendments to the OR&R. It also included an introductory memorandum, authored jointly by MCE’s Associate General Counsel and its new General Counsel, Catalina Murphy. The memorandum’s opening passages identified four “minimal changes” proposed for the OR&R. These changes were: (1) updating MCE’s name; (2) streamlining the description of the Board Chair’s duties regarding agendas; (3) extending the term of the Board secretary; and (4) changing the month for the annual Board election. The memorandum’s list of changes did not mention any change in Board approval of hiring General Counsel. See <https://www.mcecleanenergy.org/wp-content/uploads/2023/06/MCE-Board-Meeting-Packet-June-2023.pdf>, at pdf pp. 84–85. Consistent with counsel’s memorandum, the proposed amendments to the OR&R in this packet included these four “minimal changes,” yet no change to the Board’s then-existing power: the requirement that the Board must approve the hiring of General Counsel. *Id.*, at pdf pp. 89 and 94.

5. But in a subsequent Supplemental Packet for the same June 15, 2023 Board meeting, clean and redlined documents showed, for the first time, a proposed amendment of the OR&R striking Board authority to approve the hiring of General Counsel. See <https://www.mcecleanenergy.org/wp-content/uploads/2023/06/6.15.23-Supplemental-Meeting-Packet.pdf>, at pdf pp. 16 & 21. We found no additional or updated memorandum highlighting this change from the earlier June packet, no comment from staff addressing this change, and no

indication when this supplemental packet was transmitted to the Board. This two-packet submission to the Board, again without explanation, we will see again in this timeline.

6. With these two versions of the OR&R submitted to the Board on June 15 the proposed changes to the OR&R was presented for action.

<https://www.youtube.com/embed/VQPtcnYMBA>, at 38:14. Associate legal counsel summarized relevant history, explaining that the Executive Committee reviewed MCE’s formation documents at its February 2023 meeting, and concluded the OR&R should be updated to incorporate “minimal changes.” Counsel explained that the Executive Committee “then formed an ad hoc committee, tasked with providing a recommendation to the Board on this matter. The resulting document from the ad hoc committee meeting is the proposed amendment to MCE Operating Rules and Regulations, which can be found in attachment A of item number 7.” *Id.* at 38:28–39:16. (We note that both meeting packets contain an attachment “A” concerning item number 7.) Counsel then listed a “quick summary of the proposed revisions,” specifically describing the same four items mentioned earlier in paragraph #4 above — but again, counsel did not mention any change regarding Board approval of the position of General Counsel. *Id.* at 39:17–40:00.

## **Step 2: Management Characterizes Change in Rules as “Alignment”**

7. Counsel next turned to the recently circulated Supplemental Packet, stating:

“It came to our attention after the first packet was released that there did need to be an additional edit to align with Resolution 2018-09 [quoted in paragraph #2 above] ... , which delegated the authority of setting compensation, number, tenure, appointment, and conditions of employment aside from the CEO position to the Chief Executive Officer, so long as these actions are consistent with the Board-approved budget. So, we’ve made that additional edit. You’ll find it in the redline.” *Id.* at 40:07–40:40.

Counsel did not advise whether the Executive Committee reviewed and approved that “additional edit” as required, when that edit was made, what was being “aligned,” or to whom “we” referred. Taken by its own terms, counsel’s statement says that an inconsistency between Resolution 2018-09 and the OR&R had been identified, and that someone determined that the OR&R must be “aligned” with the resolution. Counsel’s statement also implies that determination was made by counsel, without consultation by the ad hoc committee, and only after the first packet was released for the June 15 Board meeting.

Counsel’s last quoted passage (inset above) — a recitation that focused on delegated compensation and related authority, but did not include any of the key terms, “approve,” “hire,” or, most importantly, “General Counsel,” and said nothing about the process by which the (late) Supplemental Packet was produced for Board action — was the full extent of the explanation to the Board about the newly-inserted amendment to strike from the OR&R the Board’s longstanding authority to approve the hiring of General Counsel. *We conclude that this explanation, delivered immediately before the Board’s vote, can most charitably be characterized as less-than-transparent. Indeed, it appears to have been phrased to obfuscate, rather than illuminate, the fact that the Board was about to remove from its fundamental OR&R,*

the key authority to approve the hiring of General Counsel, a power that it had possessed since MCE's inception in 2009.

The Board Chair asked for any public comment; there was none. *Id.* at 45:16–45:22. The Board then proceeded to its first vote, apparently passing the Supplemental Packet amendments to the OR&R Packet unanimously. *Id.* at 49:02–50:39. However, pursuant to the OR&R itself, changing that fundamental document is a two-step process; this first vote was therefore provisional, requiring confirmation by a second vote at the next Board meeting, which would be held August 17, 2023.

### **Step 3: Management Again Highlights “Minimal Changes” — and Again Does Not Mention General Counsel**

8. The August 17, 2023 Board Meeting Packet showed *most* of the OR&R amendments that had been provisionally approved in June 2023. See <https://www.mcecleanenergy.org/wp-content/uploads/2023/08/MCE-Board-Meeting-Packet-August-2023.pdf>, at pdf pp. 21–25 (redlined). Yet confusingly — and apparently failing to reflect the Board's June vote described in paragraph #7 above — the August packet showed *no* amendment to the OR&R removing the Board's authority to approve the hiring of General Counsel. (As an aside, this packet also did not show the names of MCE's member jurisdictions on the first page of the OR&R — names that *had* appeared in the June 15 Supplemental Packet. As we will see, this information would later be contained in a last-minute Supplemental Packet, submitted to the Board on the afternoon before the August 17 Board meeting.)

9. An accompanying memorandum to the Board, included in the August 17 Meeting Packet, reminded Board members about the two-step process for amending the OR&R, and highlighted the same *four* items proposed for amendment that had been highlighted in June. See <https://www.mcecleanenergy.org/wp-content/uploads/2023/08/MCE-Board-Meeting-Packet-August-2023.pdf>, at pdf pp. 14–15. To keep these items in mind, we quote this memorandum:

“For reference, the revisions to the ORR that the Board authorized to proceed for approval include:

- Updating MCE's name from ‘Marin Energy Authority’;
- Streamlining the Chairperson's duty from ‘supervise the preparation of the agenda’ to ‘review the agenda’ before each Board or Committee meeting;
- Allowing the continuation of the Secretary's one-year term, subject to the Board's decision to remove; [and]
- Changing the annual election Board meeting month from June to ‘on or near December’ which better aligns with the local elections of the MCE member communities.” *Id.*, at pdf p. 15.

Again, neither the OR&R version recommended to be approved in the Meeting Packet, nor its accompanying memorandum, mentioned any change in the Board's authority to approve the

hiring of General Counsel. (And again, these omissions would soon be “corrected” by Supplemental Packet and verbal introduction by counsel.)

10. Prior to the August 17 Board meeting, a Supplemental Packet was again posted, again late, and other relevant documents were submitted to Board members by email without public posting (see paragraph #11 below). See <https://www.mcecleanenergy.org/wp-content/uploads/2023/08/MCE-Board-Meeting-Supplement-Packet-August-2023.pdf>. However, this packet is unlike most of the Board packets we have seen on the MCE website, before and after 2023. The Supplemental Packet for the August 17 meeting, as this packet appeared to the Grand Jury in 2026 (and earlier, on Sept. 19, 2024 and Oct. 6, 2024, courtesy of the Internet Archive Wayback Machine), consists simply of a two-page agenda, without any attached documents. <https://web.archive.org/web/20241001000000/https://www.mcecleanenergy.org/wp-content/uploads/2023/08/MCE-Board-Meeting-Supplement-Packet-August-2023.pdf>. More specifically, this Supplemental Packet included no document showing proposed amendments to the OR&R, and no memorandum highlighting or explaining changes to Board approval of the hiring of General Counsel. Absent a second presentation of proposed changes to the OR&R highlighting such removal of the Board’s authority, under both (1) the Brown Act (California’s open public meetings law, set out in Cal. Gov. Code, §§ 54950–54963), and (2) pursuant to the two-step process required for OR&R amendments, it appears to the Grand Jury that the Board could not *properly* undertake a second, confirming, vote on such changes.

### **Late and Missing Documents — and Misdirection**

11. We have learned, from our interviews with Board members, that although documentation showing proposed amendments to the OR&R to remove the Board’s authority is missing from MCE’s official posted archives, in fact Board members were provided such written documentation on the day before the August 17, 2023 Board meeting. An MCE staff email sent at 2:56 PM on August 16, 2023, to all Board members stated: “Attached are real-time and meeting materials to be discussed at tomorrow’s in-person Board meeting at 7:00 P.M.” Appended to that email were: (1) The same two-page Supplemental Packet agenda mentioned in paragraph #10, above; (2) a 10-page slide presentation about MCE’s Deep Green program; and (3) & (4) “*redlined*” and “*clean*” versions of the proposed changes to the OR&R. The latter two documents showed, in renumbered article VI, section 2.b., the proposed amendment removing the Board’s authority to approve the hiring of General Counsel, just as this amendment appeared in the June Supplemental Packet mentioned in paragraphs #5 and #6 above. *Significantly, there was no accompanying memorandum, or update to the prior memorandum described in paragraph #9 above, highlighting the inclusion of this additional amendment, or otherwise reminding the Board of the (less-than-transparent) explanation that had been provided orally at the June Board meeting. Nor have we seen any indication that MCE’s General Counsel, or associate general counsel, alerted the Board to any potential conflict of interest arising from counsel’s representations or presentations concerning this matter that directly affected General Counsel.*

12. The Board voted again at the August 17, 2023 meeting to amend the OR&R. See <https://mcecleanenergy.org/wp-content/uploads/2024/06/MCE-Board-Meeting-Minutes-August->

[17-2023.pdf](#), pdf p. 3, item 7. As the ensuing Board meeting video shows, MCE’s associate legal counsel highlighted the “*version that ... you received yesterday via email,*” and stated that it was “*the [same] one that has been distributed today.*”

<https://www.youtube.com/embed/4Vk9j021OZw>, at 1:18:57–1:19:09. Then legal counsel reported that MCE staff recommended the Board’s approval of the proposed amendments. In doing so legal counsel did not mention, let alone highlight, the fact that the new document in the Supplemental Packet (both redlined and clean versions) differed from the OR&R amendment document contained in the initial August 17 meeting packet, insofar as the new document removed the Board’s authority to approve the hiring of General Counsel.

Unusually for Board meetings, there was no discussion by Board members about *any* of the four proposed amendments to the OR&R submitted to the Board, whether in June or in August, and counsel did not state that the new document was the same document approved by the Board in June (two approvals being consistent with the OR&R’s two-step amendment process). Nor did the Board Chair ask if any member of the public wished to comment. The matter was moved quickly to a vote; the proposed OR&R amendment passed unanimously. *Id.* at 1:20:26–1:22:30.

### **Result: Board Authority is Reduced — and the Hiring Without Board Approval is Papered Over**

13. The resulting updated version of the OR&R presently posted on the MCE website (listed as amended as of August 17, 2023) shows that the Board retains its authority to approve the hiring of the CEO — but the Board’s former authority, possessed since 2009, to approve the hiring of General Counsel, is now absent. See <https://mcecleanenergy.org/wp-content/uploads/2023/08/Amended-MCE-Operating-Rules-Regulations-Final-8.21.23.pdf>, at pdf p. 4.

### **Observations and Conclusions — Skirting the Rules, the Board Unaware, and Apparent Violation of The Brown Act**

1. In light of paragraph #s 1–3 above, we question how Catalina Murphy was promoted to the position of General Counsel in April 2023, without Board approval of that hiring, *when it appears that, at that time, MCE’s fundamental governing OR&R document controlled, and required, approval of the “full ... Board.”*

2. In light of paragraph #s 4–10 above, it appears that the OR&R amendment removing the Board’s authority to approve hiring of General Counsel, submitted to the Board on June 15 in the late Supplemental Packet, was never properly brought to the attention of the Board, either by memorandum or orally, before the Board voted to adopt such a change. *To the contrary: As observed earlier, it appears that the explanation then given to the Board concerning the proposed amendment did more to obfuscate than illuminate. The “quick summary of the proposed revisions” did not mention the fact that the Board was being asked to eliminate from its fundamental OR&R, the key authority that it had possessed since 2009 — the approval of the hiring of General Counsel.*

3. The Brown Act, California’s open public meetings law, requires that materials distributed less than 72 hours prior to discussion of agenda items must be made available for “public inspection ... at the time the writing is distributed” to the Board members. (Cal. Gov. Code, § 54957.5, subd. (b)(1).) This section provides two alternative ways for an agency to comply with this requirement:

- First, under subdivision (b)(2)(A), the agency shall (i) make the writing available for public inspection “at a public office or location that the agency shall designate for this purpose” and (ii) list the address where [the writing] is available “on the agendas for all meetings of the legislative body of that agency.”
- Alternatively, an agency can comply under subdivision (b)(2)(B), by meeting *each* of four different requirements, one of which is: “(ii) The ... agency immediately posts [the writing] on the ... agency’s internet website.” For those attending the August 17, 2023 meeting remotely, immediate posting on MCE’s website pursuant to section 54957.5, subdivision (b)(2)(B) — along with a real-time oral notification to the video audience highlighting the posting prior to the Board’s vote — *would be the only way* for MCE to provide public access to such a last-minute submission.

In light of paragraph #s 8–13 above, it is unclear whether MCE and its Board complied with this important law. Specifically, based on what is shown in MCE’s public archives, it is not apparent that the key documents setting out the proposed changes to the OR&R, which were appended to the email sent to Board members on August 16, and then subsequently distributed to Board members at the August 17 meeting, *were made available to the public (whether attending the meeting in person or participating virtually on line) prior to the Board’s vote.* (Indeed, these key documents remain hidden from the public on MCE’s public archives page even now.)

4. Finally, the history set out above concerning the June and August meetings reflects strikingly similar internal procedural irregularities that, on their own (and all the more when considered in combination), make us question whether the Board (i) received clear and independent legal advice *about an issue that directly affected General Counsel*, and (ii) was fully aware of the significant change that it approved on August 17, 2023, which removed its own authority to approve hiring of General Counsel. Specifically, as mentioned in the above timeline:

- In June 2023 MCE’s legal counsel highlighted, both by memorandum and orally, various specific proposed amendments to the OR&R — but was insufficiently transparent (*and indeed, appears to have obfuscated*) regarding amendments written to remove the Board’s authority to approve hiring of General Counsel.
- In August 2023, counsel obfuscated again, at least twice. As an initial matter, MCE’s legal counsel listed specific proposed amendments to the OR&R, but that list did not include removing the Board’s authority to approve the hiring of General Counsel. Next, after providing the Board with a late substitute document that *did* show the removal of the Board’s authority, MCE’s legal counsel provided an ambiguous and incomplete history of that change and, once again, counsel failed to highlight that change (either by an accompanying memorandum, or orally) when presenting the OR&R amendment to the Board.

###