



Via Certified Mail

September 9, 2026

Honorable Stephen Freccero
Presiding Judge
Superior Court of California
County of Marin
3501 Civic Center Drive
San Rafael, CA 94903

Re: Civil Grand Jury Report

Dear Judge Freccero,

The MCE Board of Directors submits MCE's responses to the findings and recommendations contained in the Civil Grand Jury's report, *MCE, Marin Clean Energy: A Series of Missteps Highlight Need for Governance Changes*.

MCE's 34-member Board represents 38 communities across four counties. Although our communities differ, we are united by a commitment to MCE's fundamental mission: eliminating fossil fuel greenhouse gas emissions, producing renewable energy, and creating equitable community benefits.

We thank the Civil Grand Jury for the substantial time and effort devoted to its investigation. We also acknowledge the environmental advocates, ratepayer groups, labor representatives, members of the public, and journalists whose scrutiny has brought greater attention and urgency to important questions about MCE's governance and operations.

The report identifies institutional weaknesses in Board oversight, internal controls, organizational accountability, and the information provided to support major decisions. The Board recognizes that MCE's governance practices did not keep pace with the agency's growth, complexity, and financial responsibilities. Whatever confidence the Board placed in professional management, ultimate responsibility for ensuring effective institutional oversight rests with the governing body.

The Board accepts its responsibility to address these weaknesses. Significant reforms are already underway, including the creation of a Finance Committee, the retention of an independent governance and management consultant to assess the Board's size and composition, the engagement of independent governance counsel, and the restoration of direct Board oversight of the General Counsel. MCE is also conducting a search for a new Chief Executive Officer and strengthening the Board's engagement with the agency's core business of energy procurement.

These actions represent an important beginning, not the completion of the work required. Lasting reform will require clearer accountability, stronger controls, more complete and comprehensible information, greater transparency, and sustained attention to the affordability and measurable environmental value of MCE's decisions.

We agree with many of the Civil Grand Jury's findings and recommendations. For each finding and recommendation, the Board provides the applicable response and, where appropriate, additional context or information. Our purpose is to respond carefully and accurately while establishing a constructive path forward.

We thank and recognize MCE's dedicated staff for continuing to serve our customers during a difficult period. MCE's customers, member communities, and staff deserve an organization with clear priorities, effective leadership, and appropriate oversight.

MCE helped pioneer community choice energy in California. It must now lead again through integrity, measurable climate progress, disciplined management, and affordable rates. The Board understands that MCE will ultimately be judged not by the reforms it announces, but by the results it delivers.

Very truly yours,

Signed by:

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Shanelle Scales-Preston

Board Chair

Enclosure

With Electronic Copies to:

Linda Lye, Senior Legal Counsel
Bethany Burgess, Special Governance Counsel

RESPONSE OF MARIN CLEAN ENERGY
TO THE FINDINGS AND RECOMMENDATIONS OF
THE 2026 COUNTY OF MARIN CIVIL GRAND JURY REPORT
“MCE, MARIN CLEAN ENERGY: A SERIES OF MISSTEPS
HIGHLIGHT NEED FOR GOVERNANCE CHANGES”

Responses to Findings

Finding No. 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.

*Response: **Partially agree; partially disagree.*** The MCE Board agrees that the Board has not always played a sufficiently active role in certain key agency decisions. As will be noted throughout this response, the Board has retained a management consultant to conduct a governance assessment and provide recommendations for improving Board governance policies.

Finding No. 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.

*Response: **Partially agree; partially disagree.*** Some members of the Board believe that, at times in the past, the Board has not received adequate and independent legal advice. More recently, Board members recognize that legal advice has been independent and adequate. The Board is committed to re-evaluating the selection process and reporting structure for legal counsel to ensure there is independence from management in the provision of legal advice. To that end, on July 16, 2026, the Board adopted Resolution No. 2026-06 rescinding Resolution No. 2018-09, clarifying that authority to appoint the General Counsel is not delegated to the CEO, and providing that the General Counsel shall report directly to the MCE Board.

Finding No. F3: The Board’s size and composition make it difficult for the Board to govern.

*Response: **Agree.***

Finding No. F4: Many Board members have - quite understandably - limited expertise regarding a large and complex company such as MCE.

*Response: **Agree.***

Finding No. 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.

*Response: **Partially agree; partially disagree.*** MCE agrees that its Board is made up of local elected officials who face competing demands on their time and resources. The Board recognizes that this can present challenges to ensuring there is consistent meeting attendance. The Board

disagrees that attendance has often been poor and insufficient, given that the average member community attendance at regular Board meetings for 2026 has been 77% and for 2025 was 75%.

Finding No. 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.

*Response: **Agree.*** MCE’s energy contracts are technical and complex and MCE Board members may face challenges in understanding their costs, risks, and policy implications.

Finding No. 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 the market.

Response: The MCE Board **agrees** that the Board lacks sufficient visibility into some of MCE’s business operations. The Board is committed to evaluating MCE’s organizational policies related to power purchasing activities to ensure there is an appropriate level of Board oversight and engagement.

Finding No. 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.

Response: The MCE Board **agrees** that MCE management provided an explanation to the Board that some members of the Board found to be adequate and understandable, while for other Board members, was not comprehensive and does not sufficiently explain why MCE incurred such significant cost increases. The Board recognizes that MCE staff has made improvements in communicating information to the Board regarding MCE energy procurement practices.

Finding No. 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.

*Response: **Agree.*** More recently, however, MCE management has explored additional options for providing such information to the Board.

Finding No. 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.

Response: The MCE Board **agrees** that in the past, management has at some times and in key respects failed to provide Board members with all the information necessary for effective decision-making. The Board recognizes that, more recently, MCE management has made significant improvements in communicating information to the Board. As part of the Board's governance assessment, the Board will consider recommendations related to Board oversight of the Chief Executive Officer, along with recommendations regarding the best ways to address Board inquiries and concerns.

Finding No. 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.

Response: **Generally agree.** Prior to August 2023, the Board's Operating Rules and Regulations ("OR&Rs") required the Board Chair to supervise agenda preparation. In August 2023, the Board amended its OR&Rs to require only the Chair's review. More recently, MCE has adopted a practice of having staff prepare agendas in collaboration with the Board Chair and Vice Chair, with review by the Executive Committee. While this practice provides additional Board oversight, it is not expressly established in the OR&Rs, which also do not provide a mechanism for Board members to request future agenda items or provide input on the prioritization and scheduling of agenda items.

Finding No. 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.

Response: The MCE Board **agrees** that in 2023, the process for amending the agency's OR&Rs was not sufficiently transparent and key materials were not timely provided to the Board and the public as required by the Brown Act. Moreover, MCE is committed to updating its agenda setting and publishing processes to ensure transparency and Brown Act compliance.

Finding No. F13: Management has repeatedly violated key internal controls, including "Resolution 2020-04" and "authorization chain" documents, which require consultation about, and approval of, one-to-five-year energy contracts.

Response: The MCE Board **agrees** that various energy contracts were approved and executed by the Chief Executive Officer and the Board Chair or Vice-Chair without consultation about those contracts with an appropriate Committee of the Board or approval and execution by the Technical Committee Chair. The Board is committed to evaluating and clarifying the roles and responsibilities established in Resolution No. 2020-04.

Finding No. 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.

Response: **Agree.** MCE is undertaking a governance assessment that will address, among other things, whether and how its foundational documents should be updated.

Responses to Recommendations

Recommendation No. 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.

*Response: **The recommendation is currently in process.***

As discussed throughout this response, the MCE Board will evaluate its current delegations of authority and policies pertaining to contract approval to ensure that such policies and delegations provide sufficient oversight for the organization. Additionally, as noted above, MCE is currently conducting a governance assessment and will consider recommendations from its consultant regarding the Board’s role and responsibilities in managing the Chief Executive Officer’s performance. The first phase of the governance assessment is expected to be completed by December 31, 2026.

Recommendation No. 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.

*Response: **The recommendation has been implemented in part; with the remaining part to be considered in the future.***

On July 26, 2026, the Board adopted Resolution No. 2026-06 re-establishing authority for appointment of the General Counsel and addressing the General Counsel’s reporting structure. The Board agrees that it should also amend its OR&Rs to align with Resolution No. 2026-06. The Board will seek input from its retained management consultant regarding appropriate procedures for selecting the Chief Executive Officer, General Counsel, and other C-level employees, and will endeavor to have this work completed by December 31, 2026.

Recommendation No. R3: By December 31, 2026, the Board should determine whether its current size and composition are impediments to oversight and governance.

*Response: **The recommendation is currently in process.***

As stated above, MCE is currently undertaking a governance assessment. As part of this governance assessment, MCE’s retained management consultant will evaluate the challenges to governance associated with MCE’s current Board structure. The first phase of the governance assessment is currently scheduled to be completed by December 31, 2026.

Recommendation No. 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 the prioritization of agenda items.

Response: *The recommendation has not yet been implemented, but will be implemented in the future.*

The Board agrees to evaluate its agenda development practices and those practices currently employed by other similar organizations to identify approaches that promote meaningful Board and community input in agenda setting and the prioritization of policy and operational items requiring Board direction. MCE agrees to complete this evaluation by December 31, 2026, and will endeavor to implement any recommended revisions by March 31, 2027.

Recommendation No. 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.

Response: *The recommended evaluation is currently in process.*

As noted above, MCE is undertaking a governance assessment. As part of this process, MCE's retained management consultants will provide recommendations for improvement of the organization's governance structure. The initial phase of the governance assessment is expected to be completed by December 31, 2026.

Recommendation No. 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.

Response: *The recommendation has not yet been fully implemented, but will be fully implemented in the future.*

The Board should review and assess the value to ratepayers of MCE's energy procurement policies, including policies for contracts that may serve primarily to allow MCE to claim a higher renewable Power Content Label. The Board will endeavor to complete the policy review by September 30, 2027, and will periodically audit compliance with and effectiveness of such policies on a continuing basis.

Recommendation No. 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.

Response: *The recommendation requires further analysis.*

MCE has reviewed various energy contracts executed over the past several years and has identified lessons learned. It has introduced process improvements to its energy purchasing procedures and

continues to explore additional improvements. In addition, as part of this year's audit, MCE's independent auditor sampled specific transactions including pricing approval chains relative to energy procurement. The MCE Board will consider whether to conduct a more robust review of past energy contracts by March 31, 2027. The MCE Board will also consider and evaluate revisions to its existing policies and governance to ensure there is an appropriate level of Board oversight and engagement with respect to energy contracts.

Recommendation No. 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.

Response: The recommendation requires further analysis.

By December 31, 2026, the Board will consider whether to conduct an internal review of the April 2023 promotion of the Associate General Counsel to the position of General Counsel to determine whether such promotion complied with MCE's then-current Operating Rules and Regulations.

Recommendation No. 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).

Response: The recommendation requires further analysis.

The MCE Board cannot agree at this time that all services exceeding a *de minimis* threshold in duration or cost should be subject to competitive solicitation, as there may be appropriate exceptions that warrant consideration. However, the Board agrees that MCE should follow established policies and procedures governing competitive solicitations and will review its purchasing and contracting policies and procedures to consider appropriate revisions to such policies that promote greater competition and transparency. The MCE Board will endeavor to complete this review by March 31, 2027.

Recommendation No. 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.

Response: The recommendation requires further analysis.

As noted above, MCE has retained independent public agency legal counsel and management consultants to advise on key updates to MCE's governance structure, practices, and procedures, including its Operating Rules and Regulations. The initial phase of this governance assessment is expected to be completed by December 31, 2026. The Board will also consider whether it should further evaluate the amendment of its OR&Rs in 2023.

Recommendation No. 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.

*Response: **The recommendation is currently in process.***

The Board will endeavor to complete review of its existing policies and internal controls by March 31, 2027