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MCE>public comment on 06FEB26 MCE TC agenda item #9

From Theodore Horton <theodorehorton@gmail.com>

Date Thu 2/5/2026 7:30 AM

To MCE Clerk <clerk@mcecleanenergy.org>

Cc kbirdseve@ci.benicia.ca.us <kbirdseve@ci.benicia.ca.us>; DBailey@herculesca.gov <DBailey@herculesca.gov>;
bpainter@cityofnapa.org
<bpainter@cityofnapa.org>; laura.nakamura@cityofconcord.org <laura.nakamura@cityofconcord.org>;
ebeckman@cortemadera.gov <ebeckman@cortemadera.gov>; msandhu@fairfield.ca.gov
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Preston@bos.cccounty.us <Shanelle.Scales-Preston@bos.cccounty.us>; district5@bos.cccounty.us
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jmccormick@lovelafayette.org <jmccormick@lovelafayette.org>; bzorn@cityofmartinez.org
<bzorn@cityofmartinez.org>; mperrey@cityofmillvalley.gov <mperrey@cityofmillvalley.gov>

 1 attachment (1 MB)

05FEB26 ratepayer letter to MCE board & attachment.pdf;

You don't often get email from theodorehorton@gmail.com. [Learn why this is important](#)

Good morning, Jessica:

Attached please find my public comment on Agenda item# 9 intended for MCE's Technical Committee meeting tomorrow. I have also taken the liberty of cc'ing MCE's BoD members on this email.

kindest regards~

Ted

@theodorehorton

05 February 2026

Marin Clean Energy Board of Directors
1125 Tamalpais Avenue
San Rafael, CA 94901

Re: Increased Transparency & Accountability on MCE Energy Purchase Agreements

Dear MCE Board Members:

I wanted to comment on your agenda item 9 of your upcoming MCE Technical Committee Meeting set for this Friday, 06FEB26.

I read your Resolution 2020-04, MCE's OR&Rs, the Marin IJ articles on MCE's operating losses, Alice Minyen's email of 05JAN26 to the MCE Board, and reviewed the CCA peer comparison prepared last year. As a long time MCE ratepayer, I am asking for transparency and accountability in procuring our energy—the process needs to withstand scrutiny, and we ratepayers need a good deal.

My recommendations, as a decades-long MCE ratepayer, are:

- **Independently audit** the 1-5 year energy purchase contracts executed in fiscal 2025 to determine whether they were properly authorized, executed, and valid. Focus on oversight of the 1-5 year contracts that are the cause of the recent operating losses.
- **Analyze why** the sum of these energy procurement contracts resulted in MCE's "worst-in-class" performance among the top 10 California CCAs in 24-25, resulting in ratepayers being stuck with high energy costs. Why did other CCA's revisit targets and avoid blowing hundreds of millions of dollars on short term RECs/CFAs when costs spiked in 2024 while MCE did not?
- **Develop and implement** internal procedures & controls to prevent improperly authorized contracts from being executed. Ensure that contracts are signed at prices better, or at least not worse, than the investor-owned utility offerings made to MCE ratepayers. No more circumventing the CEO/Technical Chair JOINT contracting authority requirement without consultation of the Technical Committee.

We MCE ratepayers ask for renewable energy at prices no higher than our investor-owned utility offers us. Other CCA's do a great job of providing this. Why can't MCE?

Sincerely,



Ted Horton

cc: Larkspur Mayor Stephanie Andre

0 4 FEB 26 TH COMMENTS ON
MCE AGENDA I TEM 9

From: Alicia Minyen <aliciaminyen@comcast.net>

Sent: Monday, January 5, 2026 2:12:56 AM

Dear MCE Board Members:

I'm writing to request that the Board agendaize at the next Board meeting an item to address the possibility that certain energy procurement contracts were not properly authorized and/or executed and to ascertain whether material weaknesses exist within MCE's internal control environment surrounding the authorization and execution of such contracts.

To the extent the Board Chair authorized and executed contracts rather than the Chair of the Technical Committee - such a procedural defect may result in those contracts being void because they were not authorized and/or executed by the appropriate party. In fact, there is case law addressing situations where contracts entered into by a local government agency without obtaining proper internal authorization may make such contracts void, not merely voidable.

TO: MCE Technical Committee
FROM: Catalina Murphy, MCE General Counsel
Vidhya Prabhakaran, Partner, Davis Wright Tremaine LLP
RE: Resolution No. 2020-04: Review Consultation and Execution of Certain Contracts (Agenda Item #09)

clarify the consultation and execution elements of this Board delegation. After reviewing the consultation and execution process for all active one- to five-year contracts, we conclude that MCE entered into these procurement contracts consistent with MCE's Board-approved internal delegation documents, as set forth in Resolution 2020-04 and its Operating Rules & Regulations (OR&R). If, however, the Board wishes to clarify or alter these processes going forward, it is free to do so.

0 4 FEB 26 TH COMMENTS ON
MCE AGENDA I TEM 9

DID ANY OF THE 20 CEO-EXECUTED
CONTRACTS CONTRIBUTE TO THIS
OPERATING LOSS?

	A	B	C	D	E	F	G	H	I	J	K	L	M
1	California CCA Financial Comparison												
2													
3													
4	CCA	# of Customer Accounts	2024 Load Forecast (GWh) (a)	Fiscal Year End	FY2025 Gross Revenue (b)	FY 2025 Energy Costs	FY 2025 Staff Compensation	FY2025 Total Expenses	FY2025 Operating Income (c)	FY2025 Change to Net Position	FY2025 Allocation to Rate Stabilization Fund	Energy Cost (\$ / MWh)	
5	MCE (FY ending 3/31/2025)	580,000	5,710	31-Mar	\$816,224,799	\$768,519,084	\$24,719,274	\$828,392,314	(\$12,167,515)	\$13,177,537	\$0	\$134.59	
6	MCE (12 months ending 6/30/2025)	580,000	5,710	31-Mar	807,539,008	805,616,893	25,756,932	866,657,861	(59,118,853)	(32,188,681)	-	\$141.09	
7													
8	Clean Power Alliance	1,000,000	11,453	30-Jun	1,443,468,993	1,277,421,945	22,779,394	1,328,256,401	115,212,593	136,900,950	-	\$111.54	
9	San Diego Community Power (h)	930,000	7,604	30-Jun	1,243,031,946	1,101,545,238	17,159,242	1,155,213,375	87,818,571	100,849,782	-	\$144.86	
10	Ava Community Energy (e)	743,000	6,976	30-Jun	905,543,988	767,656,144	20,387,169	821,860,082	83,683,906	18,563,835	89,708,028	\$110.04	
11	San Jose Clean Energy	350,000	3,844	30-Jun	523,506,325	427,656,117	na	459,314,651	64,191,674	16,275,219	60,000,000	\$111.25	
12	Silicon Valley Clean Energy (i)	283,688	3,815	30-Sep	504,895,443	357,942,317	14,278,000	395,760,869	109,134,574	133,709,932	-	\$93.82	
13	Orange County Power Authority (f)	290,000	3,806	30-Jun	298,584,250	275,724,133	4,388,061	287,767,292	10,816,958	148,771	15,000,000	\$72.44	
14	Peninsula Clean Energy (d)	314,000	3,319	30-Jun	451,935,615	365,971,833	14,610,948	409,064,698	42,870,917	9,094,457	60,000,000	\$110.27	
15	Clean Power SF	386,000	3,034	30-Jun	na	na	na	na	na	na	na	na	
16	Sonoma Clean Power (g)	230,800	2,142	30-Jun	266,721,531	172,915,153	11,060,408	200,059,523	66,662,008	81,976,588	-	\$80.73	
17		5,687,488											

Execution

Staff has undertaken a review of all active one- to five-year contracts and identified 20 active one- to five-year contracts that were executed jointly by the CEO (or her delegates, as authorized by Resolution 2018-08) and either the Chair or Vice Chair of the Board of Directors. The execution of these contracts by the Chair or Vice Chair of the Board of Directors is authorized by Resolution 2020-04 when read jointly with the OR&R. Further, in all cases, the counterparty has either delivered, or is

Furthermore, there may be accounting implications to the extent energy procurement contracts were not properly authorized and/or executed, including implications to MCE's financial statement audits.

Accordingly, I'm requesting that the Board engage an audit of its energy procurement contracts to ascertain which contracts were not properly authorized and/or executed and to hire outside legal counsel to ascertain the legal ramifications of any improperly authorized and/or executed contracts. The Board should also immediately inform its independent auditors of any situations involving improperly authorized contracts for their consideration. **The Board should also engage an independent auditor to assess** whether there are any **material internal control weaknesses** concerning the process for energy procurement. Moreover, the Board should consider revisiting Resolution 2020-04 to ascertain whether its current procedures for authorizing and executing energy procurement contracts are effective.

WHERE IS AUDITOR'S REPORT?

In the meantime, it's important that the Board, as fiduciaries, **take steps to ensure that the CEO does not** bind MCE into energy procurement contracts that are not properly authorized and executed.

AND ARE A BAD DEAL FOR THE
RATEPAYERS

With appreciation,

Alicia Minyen, CPA and CFE
415-722-9211

		Efficiency Ratios			
		Energy Cost (\$ / MWh)	Staff Compensation / Total Revenues	Staff Compensation per Customer Acct	Operating Margin
4	CCA				
5	MCE (FY ending 3/31/2025)	\$134.59	3.0%	\$42.62	-1.49%
6	MCE (12 months ending 6/30/2025)	\$141.09	3.2%	\$44.41	-7.32%
7					
8	Clean Power Alliance	\$111.54	1.6%	\$22.78	7.98%
9	San Diego Community Power (h)	\$144.86	1.4%	\$18.45	7.06%
10	Ava Community Energy (e)	\$110.04	2.3%	\$27.44	9.24%
11	San Jose Clean Energy	\$111.25	na	na	12.26%
12	Silicon Valley Clean Energy (i)	\$93.82	2.8%	\$50.33	21.62%
13	Orange County Power Authority (f)	\$72.44	1.5%	\$15.13	3.62%
14	Peninsula Clean Energy (d)	\$110.27	3.2%	\$46.53	9.49%
15	Clean Power SF	na	na	na	na
16	Sonoma Clean Power (g)	\$80.73	4.1%	\$47.92	24.99%

What they didn't know was where MCE was making possibly avoidable mistakes. Andre looked at financial statements at eight of MCE's peers to see if they had similar cost swings in the same time frame. They did not, she told MCE's board.

"Everyone is subject to the same market price volatility and also the same changing legislation," she said, citing the executives' explanations. "MCE's financial results for the last fiscal year are an outlier."

"My question is, why are we different?" said Sally Wilkinson, Belvedere's vice mayor and a former investment banker who has advised the U.K.'s Conservative Party on fiscal and economic policy. "Help us understand, as a board, how much market price exposure we have."