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## MCE R.2026-02 - Reject Elimination of Board Oversight and Public Transparency

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**From** Nick Pappas <npappas@gmail.com>

**Date** Thu 4/16/2026 5:09 PM

**To** MCE Clerk <clerk@mcecleanenergy.org>; Shanelle.Scales-Preston@bos.cccounty.us <Shanelle.Scales-Preston@bos.cccounty.us>; DBailey@herculesca.gov <DBailey@herculesca.gov>; tkullaway@sananselmo.gov <tkullaway@sananselmo.gov>; Mary.Sackett@marincounty.gov <Mary.Sackett@marincounty.gov>

 1 attachment (275 KB)

2026\_04\_16\_Resolution 2026-02.pdf;

Dear MCE Board,

I am writing today to recommend rejection of the proposed procurement delegation resolution, Resolution R.2026-02, included as Item #9 in tonight's [Board Packet](#).

R.2026-02 is an unambiguous attempt to eliminate public transparency and board oversight from the majority of MCE's energy purchases. This proposal comes as MCE faces growing questions and concerns regarding both the substance and process of MCE's procurement for short- and medium-term products.

As outlined in the attached letter, MCE Staff have failed to justify R.2026-02's extreme reversal of MCE's longstanding requirements for public transparency over its power supply and have failed to incorporate any recent constructive feedback into the development of R.2026-02. No justifications have been presented for the sudden reversal from the approval of R.2026-01 less than a month ago – a resolution which was passed with urgency and an intent to carry MCE through the forthcoming governance review.

I urge you to reject this item and direct the Technical Committee to have a robust, serious discussion about the establishment of a procurement framework which achieves MCE's mission as a public, transparent power agency.

Thank you for your serious engagement with this important matter.

Sincerely,

Nick Pappas  
MCE Customer, San Anselmo

To: MCE Clean Energy Governing Board  
From: Nick Pappas, MCE Customer  
Date: April 16, 2026

**Re: R.2026-02 – Reject Elimination of Board Oversight and Public Transparency**

Dear MCE Board,

I am writing today to recommend rejection of the proposed procurement delegation resolution, Resolution R.2026-02, included as Item #9 in tonight's [Board Packet](#).

R.2026-02 is an unambiguous attempt to eliminate public transparency and board oversight from the majority of MCE's energy purchases. This proposal comes as MCE faces growing questions and concerns regarding both the substance and process of MCE's procurement for short- and medium-term products.

As outlined below, MCE Staff have failed to justify R.2026-02's extreme reversal of MCE's longstanding requirements for public transparency over its power supply and have failed to incorporate any recent constructive feedback into the development of R.2026-02. No justifications have been presented for the sudden reversal from the approval of R.2026-01 less than a month ago – a resolution which was passed with urgency and an intent to carry MCE through the forthcoming governance review.

I urge you to reject this item and direct the Technical Committee to have a robust, serious discussion about the establishment of a procurement framework which achieves MCE's mission as a public, transparent power agency.

***I. Staff's Justifications for Eliminating Public Oversight Are Unrelated to Proposed Changes and Can be Easily Rectified with Narrow Adjustments to R.2020-04***

MCE presents three examples to support the elimination of public oversight. Two of the three examples have no relationship to the proposed changes, as they can be executed independently by Staff today under the broad delegated authority for short-term transactions under R.2020-04 with no prior consultation or Board co-signature. The third example, the need to move quickly for long-planned solicitations, can be easily solved with a modest adjustment to R.2020-04 to facilitate pre-authorization for specific circumstances. Specifically, The [Staff Memo](#) highlights the following three examples:

- **Energy Hedge Solicitations:** First, the memo cites the two-hour window over which brokers may hold prices for MCE. This is a function of those brokers' holding similar "sell" prices with gas plant operators on the other side of the deal. While I question the two hour window, this may represent a legitimate moment of urgency. However, this scenario could be easily solved through the establishment of a pre-authorization framework for transactions within specific parameters (e.g. pricing, volumes, product types) timed to align with solicitation timelines, which internal documents clearly demonstrate are controlled by MCE.
- **Bilateral RA Transactions:** Second, the memo cites urgency for RA transactions, which it notes are opportunistic and bilateral and occur in narrow windows for Year Ahead and Month Ahead transactions. However, the Staff Memo completely omits the qualifier that this urgency exists solely for short-term RA transactions which MCE Staff already have full authorization to execute independently under R.2020-04's framework for transactions shorter than one year.
- **Environmental Attribute Purchases and Sales:** Third, the memo cites urgency in purchases and sales of renewable and carbon-free energy. Again, such optimization is occurring predominantly if not exclusively for periods shorter than one year within the existing delegation framework; multiyear transactions are notable exceptions and merit more robust oversight and policy discussion with the Board.

### 3. Delegation to the Chief Executive Officer

The CEO is hereby authorized to approve and execute:

- a. contracts for Energy Procurement for terms of less than or equal to 12 months, which the CEO shall timely report to the Board of Directors;

#### *Existing Authorization in Resolution 2020-04 (C) 3 (a) Addresses Two of Three Alleged Justifications*

To reiterate, two of the three alleged justifications for the wholesale elimination of Board oversight and public transparency over the majority of MCE's procurement *have no nexus to the changes proposed in R.2026-02*. The third is easily solved with a narrow modification of existing rules.

In the process of rejecting this resolution, the Board should interrogate seriously how and why Staff would present such false justifications for this serious reversal in transparency and oversight.

#### **II. Resolution 2026-02 Must Be Considered in the Context of Serious and Unresolved Deficiencies in MCE's Recent Procurement Activities**

R.2026-02 would grant nearly limitless procurement authority solely to MCE's CEO, eliminating longstanding requirements for MCE to bring transactions forward to MCE's Technical Committee for "consultation" in a public, transparent, Brown Act setting. This near-limitless delegated authority must be considered in light of the serious issues which have emerged regarding MCE's procurement process:

- **R.2020-04 Violations:** As has been discussed at length, MCE Staff appear to have routinely and systematically violated the approval process requirements enshrined in R.2020-04, culminating in a closed session with MCE's outside counsel to discuss these apparent violations. Internal documents corroborate concerns that these violations occurred with Staff's knowledge that the consultation step was both required and omitted.
- **False Statements:** In parallel, MCE Staff have routinely misled the Board and public on the content of MCE's purchases, making repeated false claims regarding MCE's environmental performance beginning with "Fifteen years of reliable service and 100% fossil-free power", continuing with a series of still incorrect claims, and concluding with a public retraction.
- **Systematic Omissions:** MCE Staff have systematically declined to provide substantive detail on MCE's short- and medium-term purchases to the board, providing partial disclosures to the Board and public which omit the source and fuel type of MCE's transactions, in contrast to the more robust details provided in MCE's public filings to state regulators.
- **Objections to Board Engagement:** MCE Staff have routinely pushed back on Board members who have raised questions and concerns with MCE's procurement strategies, even when those questions relate to MCE's own public goals on things like clean Resource Adequacy.
- **Misdirection on Risk Profile:** MCE Staff have misled the Board and public on MCE's procurement strategies and risk, disputing that MCE is not financially exposed to natural gas prices – despite full knowledge that over a third of MCE's annual budget is comprised of energy hedges which are priced as a direct function of forward natural gas and energy prices.

While the proposed resolution should be rejected on principle alone as a dramatic, unjustified overreach, any one of the aforementioned concerns would be enough in isolation to give the Board serious pause before granting any further delegated authority. Taken collectively, they are an urgent wake up call for an agency deeply in need of reform.

**III. Resolution 2026-02 Fails to Address Any Recent Concerns or Implement a Positive Vision for Board and Public Oversight**

In prior [correspondence](#) to the MCE Board, I provided a vision for a functional Board-Staff structure for procurement review and oversight. I repeat key elements of that framework for the Technical Committee here:

- **Standardized Reports:** Establish expectations for a standardized report (monthly) on recent, pending, and planned short-term transactions, price movements in relevant markets, policy developments impacting market prices, and regular updates on short-, medium-, and long-term market outlooks produced by planners and industry analysts.
- **Risk Modeling:** Establish a regular cadence (quarterly) to quantitatively review near-, medium-, and long-term risks as projected under a range of future pricing scenarios.
- **Hedging Strategies:** Establish a regular cadence (annual) for review and revision of hedging strategies for short- and medium-term products to be informed by market trends and risk tolerances.
- **Enforce Review Protocols:** Enforce the existing requirement for consultation with the Technical Committee on medium-term contracts (1-5 years) consistent with R.2020-04 and MCE's existing authorization template, which requires committee review.

The MCE Board should insist on establishing a robust oversight framework as it seeks to fulfill its responsibility to the agency and the public to provide serious oversight. All of these items can be executed effectively without disclosure of specific contract prices or position, and appropriate adjustments may be easily established to ensure no market sensitive information is disclosed.

However, it is important for the Board to identify that there are distinctions between MCE seeks to avoid disclosing to harm its commercial position – a reasonable concern – and MCE seeks to avoid disclosing to the public because it is at odds with its overzealous marketing claims. The Board should be careful to avoid conflating the two.

It is worth considering the significantly wider degree of information provided publicly by MCE peers in public power, such as the [City of Riverside](#), as a useful benchmark. Among other data provided to the public, the City publishes a wide range of data on pricing, portfolio financial modeling, product valuation, and internal positions. MCE's multiyear transactions – often in the millions of dollars – deserve no less evaluation by the Board.

**Reject Resolution 2026-02**

I urge you to reject this item and direct the Technical Committee to have a robust, serious discussion about the establishment of a procurement framework which achieves MCE's mission as a public, transparent power agency.

Sincerely,



Nick Pappas  
MCE Customer, San Anselmo