



PRELIMINARY RESPONSE TO
GRAND JURY REPORT
Dated December 2, 2009

Prepared by the Board of Directors of the Marin Energy Authority
As Noticed In Special Session
December 7, 2009

DAWN WEISZ
Interim Director

[At the January 7, 2010 regular meeting of the Marin Energy Authority Board of Directors, the Board will finalize this Preliminary Response as its formal response to the Grand Jury report.]

TOM CROMWELL
City of Belvedere

F1: Partially Disagree.

LEW TREMAINE
Town of Fairfax

The Marin Energy Authority (MEA) is a new government agency, but is not a 'new level of government', and is to be financed with ratepayer revenues that do not cost the member agencies or MEA any general funds. The implied argument that general funds are at risk is patently false.

CHARLES MCGLASHAN
County of Marin

F2: Disagree.

SHAWN MARSHALL
City of Mill Valley

MEA, per the enabling legislative statute (AB117), does not submit its Marin Clean Energy (MCE) program to a direct vote of the public on the program itself in advance of the program's implementation. The representative vote is through the publicly elected representatives who serve on the MEA Board. Furthermore, the MCE program has been submitted to a vote of the public's elected representatives in their constituent cities, towns and in the county.

CHRISTOPHER MARTIN
Town of Ross

BARBARA THORNTON
Town of San Anselmo

Via the extensive hearing process used to evaluate risks and opportunities from the Marin Clean Energy Program, the standards of transparency and consumer protection have and will be honored and preserved. In addition, information about the MCE program will be provided to every ratepayer (homes and/or businesses with an electricity bill), using 4 notices of their individual right to vote themselves out of the program. Extensive information on MEA, MCE, energy products, and ratepayer rights will be provided to each residence and business in the service area during this period of time. All documentation has been available to the public on a 24 hour basis on the agency's website, www.marinenergyauthority.org.

DAMON CONNOLLY
City of San Rafael

JONATHAN LEONE
City of Sausalito

RICHARD COLLINS
Town of Tiburon

The voting public has been participating in the process through dozens of public meetings, and ratepayers have the additional opt-out opportunities provided during the official opt-out period. This process will occur over the first 90 days of the program launch, so there are 4 opportunities to vote for each ratepayer. Once enrolled in the MCE program the ratepayer can still opt out at any time, but there is a possibility they will pay a nominal exit fee to the agency to cover any stranded costs of prior energy procurement made on their behalf.

california
AB 32

F3: Agree.

Only the cities that did not join MEA have denied their ratepayers the opportunity to vote on whether to participate in the program (via the opt-out procedure).



This is a preliminary response by the MEA Board to the Grand Jury report dated December 2, 2009. The purpose of this response is to immediately address the findings and recommendations in the report and clarify some misperception and rectify some of the misinformation contained in that report. A final and Formal Response will be approved by the MEA Board at their next regularly scheduled meeting on January 7, 2010.

With respect to cities that do not opt-out, their residential and commercial customers will be transferred to the MCE program, at which point they will have 4 ballots to vote themselves out if they choose. Only cities that remain in the agency allow their ratepayers this choice.

F4: Agree.

See item F2 and F3 above.

F5: Disagree.

The Board of Supervisors as well as the staff and Chair of MEA have held numerous meetings with PG&E over the last four years to explore and determine whether PG&E could or would offer programs to 1. decrease greenhouse gas emissions on a level comparable to that offered by the MCE program, 2. increase focus on energy efficiency programs in Marin County, and 3. offer special partnership programs to help Marin meet its AB 32 obligations and internally, locally established goals. No substantive proposal was ever submitted to the Marin County Board of Supervisors or to the staff, Chair or Board of Directors of MEA.

PG&E stated that they would only partner with the County and other jurisdictions if the jurisdictions left the MCE program, and if there was no Request for Proposals (RFP) process. PG&E refused to participate if they were required to compete with other bidders. Discussions with MEA were terminated by PG&E in April, 2009.

F6: Disagree.

The Business Plan is an extremely detailed document, prepared in cooperation with energy industry experts. The Business Plan underwent two independent peer reviews. Both peer reviews found the plan to be comprehensive and containing no fatal flaws. In addition, the draft Implementation Plan, dated November 18, 2009, was made available to the Grand Jury as requested and provides an even higher level of specificity and detail, as it is more current. The Grand Jury's Report does not make reference to the detailed information contained in the draft Implementation Plan, approved by the MEA Board on December 3, and submitted to the CPUC on December 4. The Implementation Plan is, in effect, an update to the Business Plan.

F7: Disagree.

The MCE Business Plan does not state that the construction of owned assets is a requirement for the success of the Marin Clean Energy program. While potentially advantageous, it is neither necessary for "owned" facilities to be used for program success, nor is it "highly unlikely" that MEA will be able to successfully locate and support projects within Marin County to meet its local generation goals. Distributed generation, for example, has tremendous potential in Marin County, and is a stated goal of the program.

Future energy sources could be developed by private companies which sell to MEA, by joint projects between MEA, other governments and private companies, or via public financings by MEA. Each specific project proposal will be analyzed for economic feasibility, land use issues, and environmental impacts at the appropriate time in the future. With a potential renewable energy source capability over five times the size of maximum electricity demand within the borders of Marin County, MEA is confident that some projects will be located in Marin over time. Others will benefit our entire North Bay economy.

F8: Partially Disagree.

While neighboring communities have launched successful programs, the quantity of greenhouse gas reduction projected by MEA is over 50 times greater with MCE than by using all other programs combined, including the implementation of a Solar and Energy Efficiency District (SEED) Program in Marin (using AB 811 property-based financing mechanism), and all other locally based energy efficiency and renewable energy initiatives.

The major obstacle with all the other possible greenhouse gas reduction initiatives is that they require General Fund monies. Only the MCE program offers non-General Fund revenue to support efficiency and renewable energy programs at no cost increase to the ratepayer. The costs to all jurisdictions to address AB32 goals are projected to be \$394 million (California Air Resources Board data), and the establishment of MCE avoids 2/3 of that cost.

F9: Disagree.

There has been no slowdown in implementation of County energy efficiency programs (quite the opposite), nor has there been a slowdown of CREBs and other energy programs within the Marin communities; and MEA staff has applied for multiple federal, state, and local grants for renewable energy and energy efficiency projects, all while exploring the feasibility of the MCE program. MEA is not a distraction but the most significant tool for local agencies to employ as the costs and challenges of meeting AB 32 requirements are considered. In fact, the investigation and analysis of CCA within Marin has been a complimentary process in developing these other energy programs that may reduce greenhouse gas emissions. A significant portion of the analysis completed throughout CCA investigation has informed discussion and analysis focused on other complimentary energy programs and has heightened Marin's overall analysis to climate mitigation, greenhouse gas emissions reductions and renewable energy promotion.

F10: Partially Disagree.

There are risks associated with any new venture, but MEA staff and board members have identified and worked to mitigate all major rate payer risks and all risks to member jurisdictions. The remaining risk is that at sometime during MCE program operation, a ratepayer may identify an opportunity to purchase cheaper electricity (with less renewable energy content) by transferring generation service back to the incumbent utility. While this circumstance is not anticipated, Marin residents will be afforded a choice with respect to electric generation service and may base their service preference on any factor (such as price and/or renewable energy content), they so choose. If ratepayers so desire, they may, at any time, opt out of MCE (but may have to pay a nominal exit fee in the event of certain market conditions, similar to that charged by PG&E).

F11: Disagree.

The Contract elements are complete for both Phase I and Phase II ratepayers. Pricing methodology is stated and understood, based on indicative bids submitted in July, and will be finalized prior to contract execution by the Executive Director and Chair of MEA in the Spring of 2010 and again in early 2011 for Phase II. It is not possible for anyone, including PG&E, to know in advance of the execution of any power supply contract, what the price of energy will be on any given day because of the nature of the business of energy supply.

MEA's default position is that its costs of its energy in Phase I and Phase II must be "at or below PG&E's projected costs", or there will be no executed contract. The MEA Board passed a resolution at its November 4th meeting assuring that MEA will NOT execute the contract unless

Light Green Customers' (who will enjoy a minimum of 25% qualifying renewable energy content as compared to the 15% provided by PG&E) costs are at or below PG&E's projected costs. It is worth noting that California's current Renewables Portfolio Standard requires all electric utilities to provide a minimum of 20% of energy deliveries from qualifying renewable generating resources by 2010, and PG&E will not meet this target until at least 2012.

F12: Agree.

Most residential customers will not be enrolled into MCE until Phase II which is scheduled to occur in early to mid- 2011. The pricing for Phase II customers will be known prior to execution of the Phase II confirmation agreement.

F13: Agree.

F14: Disagree.

Taxpayers have no risk associated with the MCE program. Elected representatives manage the policy formation for numerous complex issues in their respective cities and in the County, including land use, public works projects, transportation, and energy. Furthermore, 1 in 4 Californians receive their electricity from public utilities, which generally charge their ratepayers 20% less than the investor-owned utilities and are governed by elected boards. MEA and the MCE program is only 'new' in the sense that it is a hybrid model between the public utilities and investor owned utilities that supply all energy, that is gas and electricity both. MCE will only be responsible for the procurement of electricity, and PG&E will remain responsible for transmission, distribution, and maintenance. Taxpayers will actually have less risk because MCE will provide rate stability and rate-setting control at the local level. There is considerable risk to the taxpayers of each jurisdiction of not doing MCE, as the costs associated with implementing AB32 mitigations will constitute a considerable drain on every jurisdiction's general fund.

Recommendations

R1: This recommendation will not be implemented.

The risks of implementing MCE are understood and manageable, and the opportunity to reduce green house gas emissions, pursue energy independence and long term price stability, and reap the local economic benefits of this program should not be abandoned out of fear, political opposition or lack of understanding. In fact, the MEA board believes that it may be significantly more risky to forego consideration of MCE program implementation in consideration of projected AB32 compliance costs burden on general funds and highly volatile natural gas markets (which are currently favorable for the CCA program). Furthermore, the MEA Business Plan anticipates, in addition to the on-going use of the expert technical advisory committee, the formation of an Energy Commission comprised of local citizens with technical expertise in rate-setting, generation, procurement, energy efficiency, renewable energy generation, etc.

R2: This recommendation will not be implemented.

As described in response to F5 above, cooperative approaches have been tried and, in some cases, are continuing. For example, PG&E has worked with local Marin governments, including MEA representatives, to implement an Energy Efficiency Partnership program detailed in a previous Grand Jury report (2008) on the County Sustainability Team. PG&E is unable to provide additional service and funding in Marin County without violating CPUC requirements for fairness across the PG&E territory.

The so-called bureaucracy of MEA is not expensive, and costs nothing to member jurisdictions' general funds, unlike all other energy programs suggested by the Grand Jury. MEA estimates that the fully-loaded staff cost will comprise only 3% of the annual budget.

No other possible programs that reduce greenhouse gas emissions, such as SEED, Energy Efficiency, solar panels on public buildings, etc., approach the projected level of greenhouse gas emissions reductions that can be obtained by MCE.

R3: This recommendation will not be implemented.

The Councils and BOS are following proper analytical, public notice and public hearing procedures for the County and the other governmental member agencies of MEA to approve or reject membership of their respective agencies in the MEA. As previously stated, the final decision on participation rests with the individual ratepayers, who will have four opportunities to opt out in the 120 day opt-out period.

R4: This recommendation will not be implemented.

To avoid compromising the negotiation process, to avoid abrogating the confidential nature of the bidding process, or of the information submitted by the bidders, and/or MEA's pricing strategy, the final contract will only be released publicly after execution. As stated previously, pricing will be refreshed and will be known with certainty prior to the execution of the contract for both Phase I and Phase II.