

CONSUMERS ENERGY CO
Form 8-K
November 04, 2009

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of Earliest Event Reported):

November 2, 2009

CMS Energy Corporation

(Exact name of registrant as specified in its charter)

Michigan

001-09513

38-2726431

(State or other jurisdiction
of incorporation)

(Commission
File Number)

(I.R.S. Employer
Identification No.)

One Energy Plaza, Jackson, Michigan

49201

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code:

517-788-0550

Not Applicable

Former name or former address, if changed since last report

Consumers Energy Company

(Exact name of registrant as specified in its charter)

Michigan

001-05611

38-0442310

Edgar Filing: CONSUMERS ENERGY CO - Form 8-K

(State or other jurisdiction
of incorporation)

(Commission
File Number)

(I.R.S. Employer
Identification No.)

One Energy Plaza, Jackson, Michigan

49201

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code:

517-788-0550

n/a

Former name or former address, if changed since last report

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
-

Top of the Form

Item 8.01 Other Events.

On November 2, 2009, the Michigan Public Service Commission ("MPSC") issued an opinion and order authorizing Consumers Energy Company ("Consumers Energy") to increase its retail electric rates to produce an additional \$139.4 million of annual revenue. The order was based upon a projected 2009 test year and a 10.7% rate of return on common equity. The rates authorized by the order are expected to go into effect no later than November 14, 2009.

Consumers Energy had, under the provisions of Michigan law, previously self-implemented a retail electric rate increase effective in May 2009 in the annual amount of \$179 million. The November 2, 2009 order requires Consumers Energy to reduce those self-implemented rates in the annual amount of \$39.6 million. Further, the MPSC directed Consumers Energy to file an application to refund an amount equal to the difference between the revenues collected by application of the self-implemented rates and the revenues that would have been collected had the final authorized rates been in effect for the period of time the self-implemented rates were effective, together with interest as required by law. The order also directed Consumers Energy to distribute to customers approximately \$72 million of proceeds from the sale of the Palisades Nuclear Power Plant, and required Consumers Energy to establish a trust fund in the amount of approximately \$163 million to cover a pre-1983 liability to the US Department of Energy for spent nuclear fuel disposal costs.

The order adopted a pilot decoupling mechanism that goes into effect December 1, 2009, which, subject to certain conditions, will allow rates to be adjusted to collect or refund the difference between the level of sales revenues adopted in the order and actual sales revenues. The order also adopted an uncollectible expense tracking mechanism that will allow rates to be adjusted to collect or refund 80% of the difference between the level of uncollectible expense included in rates and actual uncollectible expense.

The November 2, 2009 order contains a number of other findings, including but not limited to provisions relating to rate design and cost allocation among customers, and can be found at the MPSC's website at <http://efile.mpsc.state.mi.us> (Case No. U-15645).

This Form 8-K contains "forward-looking statements" as defined in Rule 3b-6 of the Securities Exchange Act of 1934, as amended, Rule 175 of the Securities Act of 1933, as amended, and relevant legal decisions. The forward-looking statements are subject to risks and uncertainties. They should be read in conjunction with "MANAGEMENT'S DISCUSSION AND ANALYSIS—FORWARD-LOOKING STATEMENTS AND INFORMATION" and "RISK FACTORS" sections of CMS Energy Corporation's ("CMS Energy") Form 10-K and Consumers Energy Company's ("Consumers Energy") Form 10-K each for the Year Ended December 31, 2008 and as updated in CMS Energy's and Consumers Energy's Forms 10-Q for the Quarters Ended March 31, 2009, June 30, 2009 and September 30, 2009. CMS Energy's and Consumers Energy's "MANAGEMENT'S DISCUSSION AND ANALYSIS—FORWARD-LOOKING STATEMENTS AND INFORMATION" and "RISK FACTORS" sections are incorporated herein by reference and discuss important factors that could cause CMS Energy's and Consumers Energy's results to differ materially from those anticipated in such statements.

Top of the Form

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

November 4, 2009

CMS Energy Corporation

By: */s/ Thomas J. Webb*

Name: Thomas J. Webb

Title: Executive Vice President and Chief Financial Officer

November 4, 2009

Consumers Energy Company

By: */s/ Thomas J. Webb*

Name: Thomas J. Webb

Title: Executive Vice President and Chief Financial Officer