

CMS ENERGY CORP
Form DEF 14A
April 10, 2009

Table of Contents

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of the Securities
Exchange Act of 1934 (Amendment No.)

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- CONFIDENTIAL, FOR USE OF THE COMMISSION ONLY (AS PERMITTED BY RULE 14a-6(e)(2))
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Pursuant to Section 240.14a-12

CMS Energy Corporation

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (check the appropriate box):

No fee required.

- Fee computed on table below per Exchange Act Rules 14a-6(i)(4) and 0-11.
 - 1) Title of each class of securities to which transaction applies:
 - 2) Aggregate number of securities to which transaction applies:
 - 3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):
 - 4) Proposed maximum aggregate value of transaction:
 - 5) Total fee paid:
- Fee paid previously with preliminary materials.
- Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.
 - 1) Amount Previously Paid:
 - 2) Form, Schedule or Registration Statement No.:
 - 3) Filing Party:
 - 4) Date Filed:

PERSONS WHO POTENTIALLY ARE TO RESPOND TO THE COLLECTION OF INFORMATION CONTAINED IN THIS FORM ARE NOT REQUIRED TO RESPOND UNLESS THE FORM DISPLAYS A CURRENTLY VALID OMB CONTROL NUMBER.

SEC 1913 (02-02)

Table of Contents

**CMS ENERGY CORPORATION
NOTICE OF ANNUAL MEETING OF SHAREHOLDERS
MAY 22, 2009**

To Fellow Shareholders of CMS Energy Corporation:

Our annual meeting of shareholders of CMS Energy Corporation (the Corporation) will be held on Friday, May 22, 2009, at 9:00 A.M., Eastern Daylight Saving Time, at our corporate headquarters located at One Energy Plaza, Jackson, Michigan 49201. The purposes of the annual meeting are to:

- (1) Elect eleven members to the Corporation's Board of Directors;
- (2) Consider a proposal to ratify the appointment of PricewaterhouseCoopers LLP (PwC) as our independent registered public accounting firm to audit the Corporation's consolidated financial statements for the year ending December 31, 2009;
- (3) Consider a proposal to approve the Corporation's Amended Performance Incentive Stock Plan;
- (4) Consider a proposal to approve the performance measures used in the Corporation's Bonus Plan;
- (5) Consider a proposal to approve an amendment to the Corporation's Restated Articles of Incorporation to provide that in uncontested elections director nominees be elected by the affirmative vote of a majority of votes cast, with a plurality vote standard retained for contested director elections (when the number of director nominees exceeds the number of Board seats); and
- (6) Transact such other business as may properly come before the annual meeting.

The Board of Directors recommends a vote FOR proposals 1 through 5. The proxy holders will use their discretion on other matters that may arise at the annual meeting.

Our annual report to the shareholders for the year 2008, including the Form 10-K with our consolidated financial statements, has been furnished to you.

All shareholders are invited to attend our annual meeting. If you were a shareholder of record at the close of business on March 27, 2009, you are entitled to vote. Every vote is important. Please vote using a touch-tone telephone, the Internet, or by signing and returning the enclosed proxy card. You can help minimize our costs by promptly voting via telephone or the Internet.

By Order of the Board of Directors

Catherine M. Reynolds
Corporate Secretary

CMS Energy Corporation
One Energy Plaza
Jackson, Michigan 49201

April 10, 2009

**Important Notice Regarding the Availability of Proxy Materials for the
Shareholder Meeting to Be Held on May 22, 2009.**

The proxy statement and annual report to shareholders are available at: www.cmsenergy.com.

PROXY STATEMENT

TABLE OF CONTENTS

<u>GENERAL INFORMATION ABOUT THE 2009 ANNUAL MEETING AND VOTING</u>	Page 1
<u>CORPORATE GOVERNANCE</u>	Page 4
<u>Background</u>	Page 4
<u>Board of Directors</u>	Page 4
<u>Director Independence</u>	Page 4
<u>Majority Voting Policy</u>	Page 5
<u>Codes of Ethics</u>	Page 5
<u>Director Communication Process</u>	Page 6
<u>Related Party Transactions</u>	Page 6
<u>Board and Committee Information</u>	Page 6
<u>PROPOSAL 1: ELECT ELEVEN MEMBERS TO THE CORPORATION S BOARD OF DIRECTORS</u>	Page 11
<u>VOTING SECURITY OWNERSHIP</u>	Page 13
<u>SECTION 16(a) BENEFICIAL OWNERSHIP REPORTING COMPLIANCE</u>	Page 14
<u>COMPENSATION DISCUSSION AND ANALYSIS</u>	Page 14
<u>COMPENSATION AND HUMAN RESOURCES COMMITTEE REPORT</u>	Page 22
<u>COMPENSATION TABLES</u>	Page 22
<u>REPORT OF THE AUDIT COMMITTEE</u>	Page 33
<u>FEES PAID TO THE INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM</u>	Page 34
<u>PROPOSAL 2: RATIFY THE APPOINTMENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM</u>	Page 34
<u>PROPOSAL 3: APPROVE THE CORPORATION S AMENDED PERFORMANCE INCENTIVE STOCK PLAN</u>	Page 35
<u>PROPOSAL 4: APPROVE THE PERFORMANCE MEASURES USED IN THE CORPORATION S BONUS PLAN</u>	Page 38
<u>PROPOSAL 5: APPROVE AN AMENDMENT TO THE CORPORATION S RESTATED ARTICLES OF INCORPORATION</u>	Page 39
<u>2010 PROXY STATEMENT INFORMATION</u>	Page 40
<u>Appendix A: Performance Incentive Stock Plan, as amended</u>	Page 41

Table of Contents

PROXY STATEMENT

GENERAL INFORMATION ABOUT THE 2009 ANNUAL MEETING AND VOTING

The Board of Directors of CMS Energy Corporation (CMS or the Corporation) solicits your proxy for our annual meeting of shareholders. We are first mailing this proxy statement and the enclosed proxy card to shareholders on or about April 10, 2009.

The terms we and our as used in this proxy statement generally refer to CMS Energy Corporation and its collective affiliates, including its principal subsidiary Consumers Energy Company (Consumers). While established, operated and regulated as separate legal entities and publicly traded companies, CMS and Consumers historically have had the same individuals serve as members of both Boards of Directors and Committees of the Board, adopted coordinated director and executive compensation arrangements and plans as well as auditing relationships. The two companies also historically have significant overlap in executive management. Thus, in certain contexts in this proxy statement, the terms our and we refer to each of CMS and Consumers and satisfy their respective disclosure obligations. In addition, the disclosures frequently reference Boards and Committees and similar plural presentations to reflect these parallel structures of CMS and Consumers.

Q: What are the purposes of this annual meeting?

A: At the meeting, our shareholders will be asked to:

- (1) Elect eleven members to the Corporation s Board of Directors. The nominees are: Merribel S. Ayres, Jon E. Barfield, Richard M. Gabrys, David W. Joos, Philip R. Lochner, Jr., Michael T. Monahan, Joseph F. Paquette, Jr., Percy A. Pierre, Kenneth L. Way, Kenneth Whipple and John B. Yasinsky (see Proposal 1 found later in this proxy statement);
- (2) Ratify the appointment of PricewaterhouseCoopers LLP as the Corporation s independent public accounting firm for the year 2009 (see Proposal 2 found later in this proxy statement);
- (3) Consider a proposal to approve the Corporation s Amended Performance Incentive Stock Plan;
- (4) Consider a proposal to approve the performance measures used in the Corporation s Bonus Plan;
- (5) Consider a proposal to approve an amendment to the Corporation s Restated Articles of Incorporation to provide that in uncontested elections director nominees be elected by the affirmative vote of a majority of votes cast, with a plurality vote standard retained for contested director elections (when the number of director nominees exceeds the number of Board seats); and
- (6) Transact such other business as may properly come before the annual meeting. The Board of Directors knows of no other matters that might be presented to the meeting except matters incident to the conduct of the meeting. However, if any other matters (including matters incident to the conduct of the meeting) do come before the meeting, it is intended that the holders of the proxies will vote thereon in their discretion.

Q: Who is entitled to vote at the annual meeting?

A: Only shareholders of record at the close of business on March 27, 2009 are entitled to vote at the annual meeting. As of March 27, 2009, the Corporation's outstanding securities entitled to vote at the annual meeting consisted of a total of 226,808,637 shares of Common Stock (\$.01 par value). Each outstanding share is entitled to one vote on all matters that come before the annual meeting. All shares represented by valid proxies will be voted at the annual meeting.

Q: What is the difference between a shareholder of record and a street name holder?

A: If your shares are registered directly in your name you are considered the shareholder of record for those shares.

If your shares are held in a stock brokerage account or by a bank or other nominee you are considered the beneficial owner of the shares and your shares are said to be held in street name. Street name holders generally cannot vote their shares directly and must instead instruct the brokerage firm, bank or other nominee how to vote their shares using the method described under "How do I vote my shares?" below. If you hold your shares in a brokerage account but you fail to return your voting instruction card to your broker, stock exchange rules will determine whether your broker may vote your shares without first receiving instructions from you on an item being presented to shareholders for approval at the annual meeting.

Table of Contents

Q: Who may attend the annual meeting and are there any requirements I must meet in order to attend the meeting in person?

A: Any shareholder of record as of March 27, 2009 may attend. You will be asked to register upon arrival at the meeting and will be required to present a form of photo identification (such as a driver's license) prior to being admitted to the meeting. **If your shares are held in street name and you plan to attend the meeting you must bring your most recent brokerage statement of account for evidence of ownership.**

Q: How do I vote my shares?

A: If you hold your shares in your own name as a shareholder of record, you may vote by telephone, through the Internet, by mail or by casting a ballot in person at the annual meeting.

To vote by telephone or through the Internet, follow the instructions attached to your proxy card.

To vote by mail, complete your proxy card, sign and date it, and return it in the enclosed, postage-paid envelope.

You can help minimize our costs by promptly voting via telephone or the Internet.

If your shares are voted by proxy, the shares will be voted as you instruct. If you sign and return your proxy card, but do not give any specific voting instructions on your proxy card, your shares will be voted as the Board recommends. Your shares will also be voted as recommended by the Board, in its discretion, on any other business that is properly presented for a vote at the meeting.

If your shares are held in street name, you must vote your shares in the manner prescribed by your brokerage firm, bank or other nominee. Your brokerage firm, bank or other nominee should provide a voting instruction form for you to use in directing it how to vote your shares.

Q: Can I change my vote after I have voted or can I revoke my proxy?

A: Yes. If you are a shareholder of record, you can revoke your signed proxy card at any time before it is voted at the annual meeting, either by signing and returning a proxy card with a later date or by attending the annual meeting in person and changing your vote prior to the start of the meeting. If you have voted your shares by telephone or the Internet, you can revoke your prior telephone or Internet vote by recording a different vote, or by signing and returning a proxy card dated as of a date later than your last telephone or Internet vote.

If you are the beneficial owner of your shares, you may submit new voting instructions to your broker, bank or other nominee.

Q: Is my vote confidential?

A: Yes, CMS shareholder voting is confidential (except as may become necessary to meet applicable legal requirements or in the event a proxy solicitation in opposition to the election of the Corporation's Board nominees is initiated). This is true for all beneficial holders. Confidentiality of the proxy voting process means:

Anyone who has access to voting information will not discuss how any individual shareholder votes;

Proxy cards and proxy forms are to be kept in a secure area so that no one has access to them except for the persons assigned to handle and tabulate the proxies;

Whether a shareholder has or has not voted is confidential, just as is how a shareholder votes;

Any comments provided by shareholders are confidential. Certain specific comments and summaries of comments are provided to management, the Boards, or appropriate Committees of the Boards, but there is no disclosure of who made the comments;

Proxy voting tabulations will be provided to management and to others as appropriate, but the results provided will be only totals and meaningful subtotals; and

The confidentiality policy discussed above relates to all beneficial holders, although banks and brokers who hold shares on behalf of others will continue to be subject to proxy solicitation rules as is standard in the industry.

Q: What constitutes a quorum at the annual meeting?

A: The presence of the holders of a majority of the outstanding shares of common stock in person or by proxy at the annual meeting will constitute a quorum, which is needed to transact any business.

Table of Contents

Q: How are votes counted for each item?

A: The determination of approval of corporate action by the shareholders is based on votes for and against (or withhold authority in the context of the election of directors). In general, abstentions are not counted as against or withhold authority votes but are counted in the determination of a quorum. However, with respect to Proposal 5 below, abstentions will have the same effect as negative votes (even though it may not have been the intent of the person voting or giving the proxy to vote against such proposal).

With respect to Proposal 1 below, the election of each director requires approval from a plurality of the shares voted. On Proposals 2, 3, and 4, approval requires votes for by a majority of the shares voted. On Proposal 5, approval requires votes for by a majority of outstanding shares of CMS Common Stock.

Although Michigan law provides for the election of directors by a plurality of voted shares as described above, the CMS Board of Directors adopted a majority voting policy in order to offer our shareholders a meaningful alternative to plurality voting. Under this policy, any director nominee who receives less than a majority of the votes cast by our shareholders shall tender his or her resignation for a determination by disinterested members of the Board whether to accept or decline that director's resignation. This policy is described in greater detail later in this proxy statement under the heading CORPORATE GOVERNANCE - Majority Voting Policy.

Under the New York Stock Exchange, Inc. (NYSE) listing standards, if your broker, bank or other nominee holds your shares in its name and does not receive voting instructions from you, your broker, bank or other nominee has discretion to vote these shares on certain routine matters, including the election of directors and the ratification of the independent registered public accounting firm. However, on non-routine matters, such as the approval of equity compensation plans (voting proposal 3), your broker, bank or other nominee must receive voting instructions from you, as they do not have discretionary voting power for that particular item. These broker discretionary votes on both routine and non-routine matters are counted toward establishing a quorum. On routine matters, broker discretionary votes are counted toward determining the outcome on that routine matter.

Q: What is householding and how does it affect me?

A: The Securities and Exchange Commission (SEC) permits us to deliver a single copy of the annual report and proxy statement to shareholders who have the same address and last name. Each shareholder will continue to receive a separate proxy card. This procedure, called householding, will reduce the volume of duplicate information you receive and reduce our printing and postage costs. A shareholder wishing to receive a separate annual report or proxy statement can notify CMS at the address or telephone number below. Similarly, shareholders currently receiving multiple copies of these documents can request the elimination of duplicate documents by contacting our Investor Services Department, One Energy Plaza, Jackson, Michigan 49201, telephone 517-788-1868.

Q: Can I access CMS proxy materials via the Internet rather than receiving them in printed form?

A: Yes. We offer shareholders of record the opportunity to access the proxy materials over the Internet rather than in printed form. **You may access these materials at the following Internet address: www.cmsenergy.com.** This gives shareholders faster delivery of these documents and saves CMS and its shareholders the cost of printing and mailing these materials.

Q: Who pays the cost of soliciting proxies?

A: The cost of solicitation of proxies will be borne by CMS. Proxies may be solicited by officers and other employees of CMS or its subsidiaries or affiliates, personally or by telephone, facsimile, Internet, or mail. We have arranged for Morrow & Co., LLC, 470 West Avenue, Stamford, CT 06902, to solicit proxies in such manner, and it is anticipated that the cost of such solicitations will amount to approximately \$10,000, plus incidental expenses. We may also reimburse brokers, dealers, banks, voting trustees or other record holders for postage and other reasonable expenses of forwarding the proxy material to the beneficial owners of CMS Common Stock held of record by such brokers, dealers, banks, voting trustees or other record holders.

Q: How does a shareholder recommend a person for election to the Boards of Directors for the 2009 annual meeting?

A: Shareholders can submit recommendations of nominees for election to the Boards of Directors. Shareholders recommendations will be provided to the Governance and Public Responsibility Committees for consideration. The information that must be included and the procedures that must be followed by a shareholder wishing to recommend a director candidate for the Boards consideration are the same as the information that would be required to be included and the procedure that would be required to be followed under our Bylaws if the

Table of Contents

shareholder wished to nominate that candidate directly. You may access the Bylaws at www.cmsenergy.com/corporategovernance. Accordingly, any recommendation submitted by a shareholder regarding a director candidate must be submitted within the time frame provided in the Bylaws for director nominations and must include (a) a statement from the proposed nominee that he or she has consented to the submission of the recommendation and (b) such other information about the proposed nominee that would be required by our Bylaws to be included in a notice to CMS were the shareholder intending to nominate such proposed nominee directly. Shareholders should send their written recommendations of nominees c/o the Corporate Secretary, CMS Energy Corporation or Consumers Energy Company, One Energy Plaza, Jackson, MI 49201.

CORPORATE GOVERNANCE

Background

The CMS and Consumers Boards of Directors have adopted Corporate Governance Principles (the Principles) that contain long-standing corporate and Board practices as well as SEC and NYSE standards. The Principles detail the role of the Boards and their Committees, the selection and role of the Chief Executive Officer (CEO), the composition and meeting procedures of the Boards and their Committees, as well as Board and Committee compensation and self-evaluation guidelines. The Boards have adopted Charters for each of their standing Committees, except the Executive Committees, that detail their purposes and duties, composition, meetings, resources and authority as well as other aspects of Committee activities. The Governance and Public Responsibility Committees are responsible for overseeing and reviewing the Principles at least annually, and recommending any proposed changes to the Boards for approval. Each Committee also reviews its Charter annually and recommends changes to the Governance and Public Responsibility Committee for review and recommendation to the Boards for approval.

The current versions of our Principles, the Charters of our standing Committees (other than the Executive Committees), and other corporate governance information, including our Employee and Director Codes of Conduct are available through our Website at www.cmsenergy.com/corporategovernance. We will provide this information in hardcopy form to any shareholder who requests it.

Boards of Directors

The Boards provide oversight with respect to our overall performance, strategic direction and key corporate policies. They approve major initiatives, advise on key financial and business objectives, and monitor progress with respect to these matters. Members of the Boards are kept informed of our business by various reports and documents provided to them on a regular basis, including operating and financial reports made at Board and Committee meetings by our CEO, Chief Financial Officer (CFO) and other officers. The Boards have five standing committees, the principal responsibilities of which are described later in this document.

Director Independence

In accordance with NYSE standards and the Principles adopted by the Boards, a majority of the directors of each Board must be independent. A director is independent if the Boards affirmatively determine that he or she has no material relationships with CMS or Consumers and otherwise satisfies the independence requirements of the NYSE and our more stringent director independence guidelines included in our Principles posted at www.cmsenergy.com/corporategovernance. A director is independent under the NYSE listing standards if the Boards affirmatively determine that the director has no material relationship with CMS or Consumers directly or as a partner, shareholder or officer of an organization that has a relationship with CMS or Consumers. The Boards have established categorical standards to assist them in determining director independence. According to these standards, a director is

independent if:

The director has no material relationship with CMS or Consumers (either directly or as a partner, shareholder or officer of an organization that has a relationship with CMS or Consumers);

During the last three years, the director has not been an employee of CMS or Consumers, and an immediate family member of the director is not, and has not been within the last three years, an officer of CMS or Consumers;

During the last three years, the director or his or her immediate family member has not received more than \$25,000 in direct compensation during any twelve-month period from CMS or Consumers other than payments for Board and Committee service or pensions or other forms of deferred compensation for prior service (provided such compensation is not contingent in any way on continued service);

The director or his or her immediate family member is not a current partner of a firm that is the internal or external auditor of CMS or Consumers; the director is not a current employee of such a firm; the director does not have an

Table of Contents

immediate family member who is a current employee of such a firm and who participates in the firm's audit, assurance or tax compliance (but not tax planning) practice; and the director or an immediate family member was not within the last three years a partner or employee of such a firm and personally worked on the audit of CMS or Consumers within that time;

The director or his or her immediate family member is not, and has not been within the last three years, employed as an officer by another company where any of the present officers of CMS or Consumers at the same time serves or served on that company's compensation committee; and

The director is not a current employee, and his or her immediate family member is not a current executive officer, of an entity that has made payments to or received payments from CMS or Consumers in an amount which exceeds the greater of \$1 million, or 2% of the consolidated gross revenues of such other entity or CMS or Consumers in any of the last three fiscal years.

The Boards undertook their annual review of director and committee member independence, including a review of each director's charitable affiliations vis-à-vis CMS and Consumers charitable contributions, including matching contributions, at their March 2009 meetings. During this review, the Boards considered any transactions, relationships or arrangements as required by the director independence guidelines included in our Principles of each non-employee director. The Boards concluded that except for Mr. Whipple, the non-employee directors had no material relationships with either CMS or Consumers directly or as a partner, shareholder or officer of an organization that has a relationship with CMS or Consumers. With respect to Mr. Whipple, the Boards considered the payment in 2007 of certain phantom stock units (which Mr. Whipple was awarded in 2004 while CEO) and determined that, based on those payments, they would not consider Mr. Whipple to be independent for governance purposes at this time. The Boards affirmed the independent status (in accordance with the listing standards of NYSE and the Principles) of each of the following nine directors: Meribel S. Ayres, Jon E. Barfield, Richard M. Gabrys, Philip R. Lochner, Jr., Michael T. Monahan, Joseph F. Paquette, Jr., Percy A. Pierre, Kenneth L. Way, and John B. Yasinsky.

Directors Gabrys, Monahan, Paquette and Way serve on the Audit Committees of our Boards. In order to serve on those Committees, each director must be independent as defined in Section 301 of the Sarbanes-Oxley Act of 2002 and in the regulations issued by the SEC under that provision. Each member of the Audit Committee satisfies this test.

Directors Lochner, Monahan, Pierre and Yasinsky serve on the Compensation and Human Resources Committees of our Boards. Each of these directors satisfies the independence tests set forth in the regulations under Section 162 of the Internal Revenue Code (IRC) and Section 16 of the Securities Exchange Act of 1934.

Majority Voting Policy

Under the Board's majority voting policy, any director nominee who receives less than a majority of the votes cast by the Corporation's shareholders at a regular election shall promptly tender his or her resignation. For this purpose, a majority of the votes cast means that the number of shares voted for a director must exceed 50% of the votes cast with respect to that director, without regard to the effect of abstentions. Upon receipt of such a tendered resignation, the Governance and Public Responsibility Committees shall consider and recommend to the Boards whether to accept or decline the resignation. The Boards will act on the Committees' recommendation within 90 days following certification of the shareholder vote, and contemporaneously with that action will cause the Corporation to publicly disclose the Board's decision whether to accept or decline such director's resignation offer (and the reasons for rejecting the resignation offer, if appropriate). The director who tenders his or her resignation pursuant to the policy will not be involved in either the committees' recommendation or the Boards' decision to accept or decline the resignation. Due to complications that arise in the event of a contested election of directors, this policy would not apply in that context, and the underlying plurality vote requirement of Michigan law would control director elections. In order to

incorporate this policy into our Articles of Incorporation, we are presenting a management proposal to amend the Corporation's Articles of Incorporation to include a majority vote standard for uncontested director elections.

Codes of Ethics

CMS has adopted a code of ethics that applies to its CEO, CFO and Chief Accounting Officer (CAO), as well as all other officers and employees of the Corporation and its affiliates, including Consumers. CMS and Consumers have also adopted a Directors Code of Conduct that applies to the directors of the Boards. The codes of ethics, included in our Code of Conduct and Statement of Ethics Handbook, and the Directors Code of Conduct can be found on our website at www.cmsenergy.com. Our Code of Conduct and Statement of Ethics, including the code of ethics, is administered by the Chief Compliance Officer, who reports directly to the Audit Committees of our Boards of Directors. The Directors Code of Conduct is administered by the Audit Committee of the Board. Any alleged violation of the Code of Conduct by a director will be investigated by disinterested members of the Audit

Table of Contents

Committee, or if none, by disinterested members of the entire Board. Any amendment to, or waiver from, a provision of our code of ethics that applies to our CEO, CFO, CAO or persons performing similar functions will be disclosed on our website at www.cmsenergy.com under Compliance and Ethics. No such amendments or waivers were granted in 2008.

Director Communication Process

CMS and Consumers shareholders, employees or third parties can communicate with the Boards of Directors, Committees of the Boards or an individual director, including our Chairman of the Boards, or our Board executive session presiding director, Joseph F. Paquette, Jr., by sending written communications c/o the Corporate Secretary, CMS Energy Corporation or Consumers Energy Company, One Energy Plaza, Jackson, MI 49201. The Corporate Secretary will review and forward such communications to the Boards or the appropriate committees or Director. Further information regarding shareholder, employee or other third-party communications with the Boards or their committees or individual members can be accessed at the Corporation's Website.

Any shareholder, employee or third party who wishes to submit a compliance concern to the Boards or applicable Committees, including complaints regarding accounting, internal accounting controls or auditing matters to the Audit Committees, may do so by any of the following means:

send correspondence or materials addressed to the appropriate party c/o the Chief Compliance Officer, CMS Energy Corporation or Consumers Energy Company, One Energy Plaza, Jackson, MI 49201;

send an e-mail or other electronic communication via our external website www.ethicspoint.com, again addressed to the appropriate party; or

call the CMS and Consumers Compliance Hotlines at either 1-800-CMS-5212 (an internally monitored line) or 1-866-ETHICSP (monitored by an external vendor).

All such communications initially will be reviewed by the Chief Compliance Officer (who reports directly to the Audit Committees of the Boards) prior to being forwarded to the Boards or applicable Committees or directors.

Related Party Transactions

CMS, Consumers or one of their subsidiaries may occasionally enter into transactions with certain related parties.

Related Parties include directors or executive officers, beneficial owners of 5% or more of CMS common stock, family members of such persons, and entities in which such persons have a direct or indirect material interest. We consider a related party transaction to have occurred when a Related Party enters into a transaction in which the Corporation is participating, the transaction amount is more than \$10,000 and the Related Party has or will have a direct or indirect material interest (Related Party Transaction).

In accordance with our Board of Directors Code of Conduct and our Employee Code of Conduct, Related Party Transactions must be pre-approved by the Audit Committee. In drawing its conclusion on any approval request, the Audit Committee should consider the following factors:

Whether the transaction involves the provision of goods or services to the Corporation that are available from unaffiliated third parties;

Whether the terms of the proposed transaction are at least as favorable to the Corporation as those that might be achieved with an unaffiliated third party;

The size of the transaction and the amount of consideration payable to a Related Party;

The nature of the interest of the applicable Related Party; and

Whether the transaction may involve an actual or apparent conflict of interest, or embarrassment or potential embarrassment to the Corporation when disclosed.

The policies and procedures relating to the Audit Committee approval of Related Party Transactions are found in the Corporation's Board of Directors Code of Conduct and Employee Code of Conduct which are available on our website at www.cmsenergy.com.

There were no related party transactions in 2008.

Board and Committee Information

The CMS Board of Directors met 9 times and Consumers Board of Directors met 8 times during 2008. In addition, the CMS Board took action by written consent in lieu of additional meetings 5 times in 2008, and the Consumers

Table of Contents

Board took action by written consent in lieu of additional meetings 4 times in 2008. All incumbent directors attended more than 75% of the CMS and Consumers Board and assigned committee meetings during 2008. Our Principles state the expectation that all Board members will attend all scheduled board and committee meetings, as well as the annual meeting of shareholders. All Board members attended the 2008 annual meeting of shareholders.

The Boards have five standing Committees including an Audit Committee, Compensation and Human Resources Committee, Finance Committee, Governance and Public Responsibility Committee and Executive Committee. The members and the responsibilities of the standing Committees of the Boards of Directors are listed below. Each Committee is composed entirely of independent directors, as that term is defined by the NYSE listing standards and the Principles described above, other than the Executive Committees of which Mr. Whipple serves as Chair. During 2008, no employee directors served on standing Board Committees, though they regularly attend non-executive meetings of all Committees. According to the Principles, the Boards and each of their standing Committees conduct a performance evaluation of their respective previous year's performance. The Boards also conduct individual director peer evaluations. The Principles are incorporated by reference into each Committee Charter.

On a regularly scheduled basis, the independent directors meet in executive session (that is, with no employee director present) and may invite such members of management to attend as they determine appropriate. Mr. Whipple is often invited to attend such sessions, especially since he became non-executive Chairman effective October 1, 2004. At least once each year, the independent directors meet in executive session without Mr. Whipple present in conformance with the NYSE listing standards. Mr. Joseph F. Paquette, Jr. was named the Presiding Director of these executive sessions effective May 2008 for a term of 2 years.

GOVERNANCE AND PUBLIC RESPONSIBILITY COMMITTEES

Members: Joseph F. Paquette, Jr. (Chair), Merribel S. Ayres, Jon E. Barfield, Philip R. Lochner, Jr., and John B. Yasinsky

Meetings during 2008: CMS 8; Consumers 8

The primary functions of these committees are to:

Establish Principles

Recommend the Principles for Board approval;

Review the Principles on an ongoing basis, recommending revisions as necessary; and

Monitor conformity of the practices of the Board with the Principles.

Identify Candidates

Seek candidates to fill Board positions and work to attract candidates qualified to serve on the Board consistent with criteria approved by the Board;

Recommend a slate of Board candidates for election at each shareholders meeting;

When a vacancy occurs on the Board (either due to a director departure or an increase in Board membership), recommend a director candidate to fill the vacancy;

Consider director candidates nominated by shareholders if they are: submitted in writing to the Secretary of the Corporation within the required time frame preceding the shareholders meeting; include the candidate's written consent to serve; and include relevant information about the candidate as provided in the Bylaws and as determined by the Committee;

Assess, on a regular basis, the personal characteristics and business experience needed by the Board in light of the Board's current composition;

Determine from time to time other criteria for selection and retention of Board members; and

Evaluate the composition of all Board Committees annually.

Assess Performance

Annually review the performance of the Committees, and report the results to the Board;

Recommend ways for the Board to increase its overall effectiveness;

Table of Contents

Review the Board's and its Committees' structure and operation, size, charters, composition and compensation, and recommend to the Board changes when appropriate;

Periodically review the Board and Committee rotation and tenure policy and recommend modifications, as appropriate, to the Board; and

Oversee new director orientation and continuing education for existing directors.

Review Environmental and Public Responsibility Matters

Review the Corporation's environmental initiatives and compliance strategy; and

Review the Corporation's public advocacy and stewardship strategies to help develop and shape corporate policies.

Review Director Code of Conduct

Review the Director Code of Conduct on an ongoing basis and recommend changes, as appropriate, to the Board.

The Committees have not established any specific, minimum qualifications that must be met by director candidates or identified any specific qualities or skills that they believe our directors must possess. The Committees take a wide range of factors into account in evaluating the suitability of director candidates. The Committees do not have any single method for identifying director candidates but will consider candidates suggested by a wide range of sources. In 2008, the Committees retained RSR Partners to assist in the identification and assessment of potential director candidates.

Shareholders can submit recommendations of nominees for election to the Boards of Directors by following the directions previously outlined in this proxy statement under the heading: GENERAL INFORMATION ABOUT THE 2009 ANNUAL MEETING AND VOTING.

AUDIT COMMITTEES

Members: Michael T. Monahan (Chair), Richard M. Gabrys, Joseph F. Paquette, Jr., and Kenneth L. Way

Meetings during 2008: CMS 8; Consumers 8

Each member of the Audit Committees is an independent director, and each qualifies as an audit committee financial expert as such term is defined by the SEC.

The primary functions of the Audit Committees are to:

Assure the integrity of CMS' and Consumers' consolidated financial statements and financial information, the financial reporting process and the system of internal accounting and financial controls;

Assure CMS' and Consumers' compliance with applicable legal requirements, regulatory requirements, and NYSE rules;

Appoint (subject to shareholder ratification), compensate and terminate CMS' and Consumers' independent auditors;

Pre-approve all audit and non-audit services provided by the independent auditors;

Assure the independent auditors' qualifications and independence;

Review the performance of the internal audit function and independent auditors;

Review CMS' and Consumers' risk management policies, controls and exposures;

Prepare the Audit Committee Report for inclusion in the annual proxy statement;

Assure compliance with the Corporation's Codes of Conduct by employees and directors including approval of any waiver of the provisions applicable to directors or executive officers, pre-approval of Related Party Transactions and receipt of periodic reports from the Chief Compliance Officer concerning compliance activities relating to the Codes of Conduct; and

Perform their duties in a manner consistent with the Audit Committee Charters adopted by the Boards of Directors.

Table of Contents

We currently do not limit the number of audit committees on which our Audit Committee members may sit. Mr. Gabrys serves on the audit committees of two public companies in addition to ours. Our Boards of Directors have determined that Mr. Gabrys' service on those other audit committees will not impair his ability to serve effectively on our Audit Committees.

COMPENSATION AND HUMAN RESOURCES COMMITTEES

Members: John B. Yasinsky (Chair), Philip R. Lochner, Jr., Michael T. Monahan and Percy A. Pierre

Meetings during 2008: CMS 7; Consumers 7

The primary functions of these committees are to:

Review and approve the Corporation's executive compensation structure and policies, including the establishment and adjustment of executive officers' base salaries, annual and long-term incentive targets and incentive payments consistent with the achievement of such targets;

Review and approve the grant of stock, and other stock-based awards pursuant to the Corporation's incentive plans, and the terms thereof, including the vesting schedule, performance goals, exercisability and term, to the Corporation's employees, including officers;

Review and approve corporate financial and business goals and target awards pursuant to the Corporation's incentive plans, and approve the payment of performance bonuses to employees, consistent with achievement of such goals;

Set the CEO compensation level based among other things on the Board's evaluation of the CEO's overall performance;

Produce an annual proxy statement report on executive compensation as required by the Securities and Exchange Commission;

Review and recommend to the Board incentive compensation plans, equity-based plans, tax-qualified retirement and investment plans, supplemental benefit plans, including supplemental executive retirement plans, deferred compensation programs, as well as employment, separation, and change-in-control severance agreements. The Committee also recommends amendments to these plans and agreements except for certain amendments that are delegated to the officers or administrators specified under the terms of the plans;

Review and act on management proposals regarding other compensation, perquisites and benefit programs, plans and guidelines;

Perform other functions assigned to the Committee under the terms of the Corporation's employee benefit and compensation plans;

Review and act on the CEO's selection of candidates for officer positions and recommend such candidates to the Board for annual or ad hoc election as officers, and recommend to the Board whether to accept or decline tenders of resignation pursuant to the Corporation's Executive Officer Retirement Policy;

Review and advise the Board concerning the Corporation's management succession plan, including long-range plans for development and selection of key managers and plans for emergency succession in case of unexpected disability

or departure of a senior executive officer;

Review organizational and leadership development plans and programs, as well as programs designed to identify, attract and retain high potential employees; and

Review the Corporation's diversity programs.

The Committees directly retain Watson Wyatt Worldwide (Watson Wyatt) as compensation consultants to the Committees. In 2002, the Committees requested that Watson Wyatt engage in a study of our executive compensation arrangements and advise whether any changes would be recommended in order that our compensation arrangements with our executive officers are appropriate. The Committees requested that the study include comparisons of our existing compensation arrangements to those of the Peer Group. Each year since 2002, the Committees have requested that Watson Wyatt provide information regarding compensation practices of the Peer Group as well as additional information from published surveys of compensation in the public utility sector and general industry. During the Committees' review of the CEO's and other managements' compensation levels, the Committees considered the advice and information it received from Watson Wyatt; however, the Committees were responsible for determining the form and amount of our compensation programs. The Committees have

Table of Contents

specifically directed Watson Wyatt to obtain the approval of the Committees before undertaking any activity on behalf of CMS or Consumers. Watson Wyatt is not performing any such services for the Corporation.

The CMS Board adopted a resolution in October 2004 allowing the Committees to delegate to the CEO the right to grant up to 50,000 shares of restricted stock per year. Individual grants are limited to 5,000 shares. The CEO provides to the Committees a recommendation of yearly base salary adjustments and yearly restricted stock awards for all officers, other than the CEO. The Committees take the CEO's recommendations, along with information provided by Watson Wyatt, into consideration when making yearly base salary adjustments and yearly restricted stock awards. Performance objectives under the annual officer incentive compensation plan are developed each year through an iterative process. Management, including executive officers, develops preliminary recommendations for the Committees' review. The Committees review management's preliminary recommendations and establish final goals.

Additional information regarding the operation of the Committees and the roles of the compensation consultant and CEO in making executive compensation decisions may be found below under Compensation Discussion and Analysis.

FINANCE COMMITTEES

Members: Kenneth L. Way (Chair), Merribel S. Ayres, Jon E. Barfield, Richard M. Gabrys, and Percy A. Pierre

Meetings during 2008: CMS 3; Consumers 3

The Finance Committees review and make recommendations to the Boards concerning the financing and investment plans and policies of the Corporation. Their responsibilities include:

Approve short- and long-term financing plans, including the sale or repurchase of common equity, preferred equity and long-term debt and recommend that the Board adopt resolutions to execute those plans;

Approve financial policies relating to cash flow, capital structure, and dividends and recommend that the Board adopt resolutions to execute those plans, as appropriate, and recommend Board action to declare dividends;

Review potential project investments and other significant capital expenditures in order to recommend to the Board the financial feasibility of such investment or expenditure;

Approve risk management policies including foreign exchange management, hedging and insurance; and

Review at least annually the (i) actuarial assumptions and funding status of the defined benefit retirement program funds and their impact on the financial statement, and (ii) the investment performance, funding, and asset allocation policies for funded employee benefit plans.

EXECUTIVE COMMITTEES

Members: Kenneth Whipple (Chair), Michael T. Monahan, Joseph F. Paquette, Jr., Kenneth L. Way, and John B. Yasinsky

Meetings during 2008: CMS 0; Consumers 0

The primary function of these Committees is to:

Exercise the power and authority of the Boards of Directors as may be necessary during the intervals between meetings of the Boards, subject to such limitations as are provided by law or by resolution of the Boards.

AD HOC OR SPECIAL COMMITTEES

The standing Committees listed above have continuing duties. In addition, the Boards of Directors have, from time to time, established ad hoc or special committees to address specific major issues facing CMS and/or Consumers. Ad hoc or special committees do not have continuing duties; they exist only until they complete their specified duties. In 2008, the Ad Hoc Litigation Oversight Committee, which was originally established in 2006, was dissolved and there were no other active ad hoc or special committees.

Table of Contents

PROPOSAL 1: ELECT ELEVEN MEMBERS TO THE CORPORATION S BOARD OF DIRECTORS

The nominees for directors are proposed to serve on the parallel Boards of Directors of each of CMS and Consumers, to hold office until the next annual meeting or until their successors are elected and qualified. Unless a shareholder votes to withhold authority for the election of directors as provided in the enclosed proxy card, the returned proxy will be voted for the listed nominees. The Boards believe that the nominees will be available to serve, but in the event any nominee is unable to do so, the CMS proxy will be voted for a substitute nominee designated by the Board or the number of directors constituting the full Board will be reduced accordingly. All of the nominees are presently serving as directors and were previously elected by shareholders.

Merribel S. Ayres, 57, has served since 1996 as President of Lighthouse Consulting Group, LLC. Lighthouse provides governmental affairs and communications expertise, as well as management consulting and business development services, to a broad spectrum of international clients. Ms. Ayres served from 1988 to 1996 as Chief Executive Officer of the National Independent Energy Producers, a Washington, DC, trade association representing the competitive power supply industry. She is a member of the Aspen Institute Energy Policy Forum, the Dean s Alumni Leadership Council of the Harvard Kennedy School. She is a director of the United States Energy Association (USEA). She has been a director of CMS Energy and of Consumers Energy since 2004.

Jon E. Barfield, 57, has served since 1981 as President and since 1995 as Chairman and President of The Bartech Group based in Livonia, Michigan, a talent acquisition and management firm which specializes in the placement of engineering and information technology professionals, recruitment process outsourcing, business process consulting services and managing the staffing requirements of regional and global corporations. Mr. Barfield currently serves as a director of BMC Software, Inc. He is also a director of Blue Cross Blue Shield of Michigan, Detroit Renaissance Inc., New Detroit Inc. and The Henry Ford. He has been a director of CMS Energy and Consumers Energy since August 2005.

Richard M. Gabrys, 67, former Interim Dean of the School of Business Administration of Wayne State University, and retired Vice Chairman of Deloitte. Mr. Gabrys served for 42 years with Deloitte in public accounting serving a variety of publicly held companies, especially automotive manufacturing companies, financial services institutions and health care entities. He serves on the boards of La-Z-Boy Corporation, Massey Energy Company, Tri-Mas Corporation, The Detroit Institute of Arts, the Karmanos Cancer Institute, Michigan Venture Capital Fund, Detroit Regional Chamber, Alliance for a Safer Greater Detroit (Crime Stoppers) and Ave Maria University. He has been a director of CMS Energy and Consumers Energy since May 2005.

David W. Joos, 56, has served since October 2004 as President and Chief Executive Officer of CMS Energy and Chief Executive Officer of Co