

CMS ENERGY CORP
Form 8-K
May 29, 2007

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):

May 24, 2007

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

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(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))
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Item 1.01 Entry into a Material Definitive Agreement.

On May 24, 2007 Consumers Energy Company ("Consumers") , a wholly owned subsidiary of CMS Energy Corporation ("CMS Energy"), signed a Purchase and Sale Agreement, dated as of May 24, 2007 (the "Agreement") with Broadway Gen Funding, LLC, an affiliate of the LS Power Group. Pursuant to the Agreement, Consumers will acquire 100% of the membership interests in Zeeland Power Company, LLC, which owns a 946 megawatt gas fired power plant located in Zeeland, Michigan. The purchase price, subject to working capital and other capital and maintenance expenditure adjustments, is \$517 million. A Consumers Energy-issued News Release dated May 25, 2007, which is attached as Exhibit 99.1 and incorporated by reference, contains additional information with respect to the transaction.

The Agreement contains a number of customary representations, warranties, covenants and closing conditions. The closing conditions include approvals by the Federal Energy Regulatory Commission, the Michigan Public Service Commission and the expiration of the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976. The Agreement also contains indemnification provisions, subject to specified limitations as to time and amount. The closing of the transaction is targeted for the first half of 2008 and the Agreement provides that a party not in default may terminate the Agreement if closing does not occur by June 30, 2008. However, Consumers and CMS Energy cannot predict with certainty whether or when the closing conditions will be satisfied or whether or when this transaction will be consummated.

The foregoing description of the Agreement does not purport to be complete and is qualified in its entirety by the provisions of the Agreement, which is attached hereto as Exhibit 99.2 and incorporated by reference herein.

Item 9.01 Financial Statements and Exhibits.

(c) Exhibits.

99.1 Consumers Energy Company News Release dated May 25, 2007

99.2 Purchase and Sale Agreement by and between Broadway Gen Funding, LLC as Seller and Consumers Energy Company as Buyer dated as of May 24, 2007

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 "FORWARD-LOOKING STATEMENTS AND INFORMATION" and "RISK FACTORS" each found in the MANAGEMENT'S DISCUSSION AND ANALYSIS sections of CMS Energy's Form 10-K and Consumers' Form 10-K for the Year Ended December 31, 2006 and as updated in CMS Energy's and Consumers' Forms 10-Q for the Quarter Ended March 31, 2007 (CMS Energy's and Consumers' "FORWARD-LOOKING STATEMENTS AND INFORMATION" and "RISK FACTORS" sections are incorporated herein by reference), that discuss important factors that could cause CMS Energy's and Consumers' results to differ materially from those anticipated in such statements.

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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.

May 29, 2007

CMS Energy Corporation

By: *Thomas J. Webb*

Name: Thomas J. Webb

Title: Executive Vice President and Chief Financial Officer

May 29, 2007

Consumers Energy Company

By: *Thomas J. Webb*

Name: Thomas J. Webb

Title: Executive Vice President and Chief Financial Officer

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| <u>Exhibit No.</u> | <u>Description</u> |
|--------------------|---|
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| 99.2 | Purchase and Sale Agreement by and between Broadway Gen Funding, LLC as Seller and Consumers Energy Company as Buyer dated as of May 24, 2007 |