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CONSUMERS ENERGY CO
Form 8-K
September 01, 2004

FORM 8-K

CURRENT REPORT

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

DATE OF REPORT (DATE OF EARLIEST EVENT REPORTED) AUGUST 31, 2004

| COMMISSION FILE NUMBER | REGISTRANT; STATE OF INCORPORATION; ADDRESS; AND TELEPHONE NUMBER | IRS EMPLOYER IDENTIFICATION NO. |
|---------------------------|---|------------------------------------|
| 1-9513 | CMS ENERGY CORPORATION (A MICHIGAN CORPORATION) ONE ENERGY PLAZA JACKSON, MICHIGAN 49201 (517) 788-0550 | 38-2726431 |
| 1-5611 | CONSUMERS ENERGY COMPANY (A MICHIGAN CORPORATION) ONE ENERGY PLAZA JACKSON, MICHIGAN 49201 (517) 788-0550 | 38-0442310 |

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 (see General Instruction A.2. below):

- 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))

ITEM 5.02. DEPARTURE OF DIRECTORS OR PRINCIPAL OFFICERS; ELECTION OF DIRECTORS; APPOINTMENT OF PRINCIPAL OFFICERS.

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On August 31, 2004, CMS Energy Corporation ("CMS Energy") announced that the Boards of Directors of CMS Energy and its principal subsidiary, Consumers Energy Company ("Consumers") elected David W. Joos to the position of president and chief executive officer for CMS Energy and Consumers, effective October 1, 2004. Ken Whipple, the companies' current chairman and chief executive officer, will continue as chairman of CMS Energy and Consumers. Joos is 51 years old. He joined Consumers in 1976 and has received a succession of increasingly responsible management positions at the companies. During the past five years, Joos has held the following positions:

- o Chairman of the Board, Chief Executive Officer of CMS Enterprises*
- o President, Chief Operating Officer of CMS Energy
- o President, Chief Operating Officer of Consumers
- o President, Chief Operating Officer of CMS Enterprises
- o Director of CMS Energy
- o Director of Consumers
- o Director of CMS Enterprises
- o Executive Vice President, Chief Operating Officer -- Electric of CMS Energy
- o Executive Vice President, Chief Operating Officer -- Electric of CMS Enterprises
- o Executive Vice President, President and Chief Executive Officer -- Electric of Consumers

* CMS Enterprises Company, a subsidiary of CMS Energy

Joos is also a board member of Steelcase Inc.

Joos previously had entered in to an executive severance agreement with Consumers in the Tier 1 form disclosed as part of Exhibit (10)(b) to CMS Energy's and Consumers' Forms 10-Q for the quarter ended June 30, 2004. The Tier I agreement, which has an initial three-year term subject to further extension, provides for change-in-control severance benefits when there is a change in control of the company and general severance benefits outside of such a change in control.

There are no family relationships between Joos and any other executive officer or director of CMS Energy or Consumers, nor does Joos have a direct or indirect material interest in any transaction or series of transactions to which CMS Energy or Consumers or any of their subsidiaries are a party in an amount that exceeds \$60,000.

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 RISK FACTORS" found in the MANAGEMENT'S DISCUSSION AND ANALYSIS sections of CMS Energy's Form 10-K/A for the Fiscal Year Ended December 31, 2003 and Consumers' Form 10-K for the Fiscal Year Ended December 31, 2003 (both 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 Registrants have duly caused this report to be signed on their behalf by the undersigned hereunto duly authorized.

CMS ENERGY CORPORATION

Dated: September 1, 2004

By: /s/ S. Kinnie Smith, Jr.

S. Kinnie Smith, Jr.
Vice Chairman of the Board and
General Counsel

CONSUMERS ENERGY COMPANY

Dated: September 1, 2004

By: /s/ S. Kinnie Smith, Jr.

S. Kinnie Smith, Jr.
Vice Chairman of the Board