

CMS ENERGY CORP
Form 8-K
March 23, 2017

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) **March 22, 2017**

Commission
File Number
1-9513

Registrant; State of Incorporation;
Address; and Telephone Number

CMS ENERGY
CORPORATION
(A Michigan Corporation)
One Energy Plaza
Jackson, Michigan 49201
(517) 788-0550

IRS Employer
Identification No.
38-2726431

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)

- o Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

 - o Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 8.01. Other Events.

In connection with the commencement of a continuous equity offering under which CMS Energy Corporation (CMS Energy) may sell CMS common stock (the Shares) having an aggregate sales price of up to \$100,000,000 from time to time in at the market offerings (the Offering), CMS Energy filed today with the Securities and Exchange Commission (the SEC) a prospectus supplement dated March 23, 2017 (the Prospectus Supplement). CMS Energy may sell the Shares in amounts and at times to be determined by CMS Energy from time to time, but has no obligation to sell any of the Shares in the Offering. Actual sales will depend on a variety of factors to be determined by CMS Energy from time to time, including (among others) market conditions, the trading price of CMS Energy s common stock and determinations by CMS Energy of the appropriate sources of funding for CMS Energy.

The Offering will occur pursuant to equity distribution agreements (each, an Agreement ; collectively, the Agreements) entered into by CMS Energy and each of Barclays Capital Inc. and Deutsche Bank Securities Inc., as agents for the offer and sale of the Shares (each, an Agent ; collectively, the Agents). The Agreements provide that CMS Energy may offer and sell from time to time pursuant to the Agreements Shares having an aggregate sales price of up to \$100,000,000 through the Agents. Each Agreement provides that the applicable Agent will be entitled to compensation as provided under the terms of such Agreement. Under the Agreements, CMS Energy may also sell Shares to the Agents for its own account.

Sales of the Shares, if any, under the Agreements may be made in transactions that are deemed to be at the market offerings as defined in Rule 415 under the Securities Act of 1933, as amended, including by ordinary brokers transactions through the facilities of the New York Stock Exchange, to or through a market maker or directly on or through an electronic communications network, at market prices prevailing at the time of sale, at prices related to prevailing market prices or at negotiated prices, in block transactions or as otherwise agreed with the Agents and described in the Prospectus Supplement. CMS Energy has no obligation to sell any of the Shares in the Offering, and may at any time suspend solicitation and offers under either Agreement or terminate either Agreement.

The Shares will be issued pursuant to the Prospectus Supplement and CMS Energy s automatic shelf registration statement on Form S-3 (File No. 333-216355) filed on March 1, 2017, with the SEC (the Registration Statement). This Current Report shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these securities in any state in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state.

The foregoing description of the Agreements does not purport to be complete and is qualified in its entirety by the provisions of each Agreement which are attached hereto as Exhibit 1.1 and Exhibit 1.2 and incorporated by reference herein.

This Current Report on Form 8-K is being filed to file certain documents in connection with the Offering as exhibits to the Registration Statement.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

1.1 Equity Distribution Agreement, dated March 22, 2017, by and among CMS Energy and Barclays Capital Inc.

1.2 Equity Distribution Agreement, dated March 22, 2017, by and among CMS Energy and Deutsche Bank Securities Inc.

5.1 Opinion of Melissa M. Gleespen, Esq., Vice President, Chief Compliance Officer and Corporate Secretary of CMS Energy, dated March 23, 2017, regarding the legality of the Shares.

23.1 Consent of Melissa M. Gleespen, Esq. (included in Exhibit 5.1).

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.

CMS ENERGY CORPORATION

Dated: March 23, 2017

By: */s/ Thomas J. Webb*
Thomas J. Webb
Executive Vice President and
Chief Financial Officer

Exhibit Index

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