

# Big Bucks for Bad Actors



**CMS Energy is under increased scrutiny for allegedly engaging in “round trip” energy trading. Instead of cracking down on corporate abuse, will Congress reward CMS Energy with more handouts in its final energy legislation?**



## Corporate Irresponsibility

**Sham Energy Trading:** CMS Energy is under investigation for round-trip trading, which involves simultaneously selling and buying back electricity at the same price, while reporting revenue from the transactions. These energy swaps allegedly inflated CMS Energy’s revenues and expenses by more than \$4.4 billion from May 2000 through mid-January 2002.<sup>1</sup>

**Cooking the Books:** The Securities and Exchange Commission required executives of 691 companies to swear to the veracity of their financial statements by August 14, 2002. As of August 22, CMS Energy had yet to comply because of an ongoing internal investigation into its energy trading practices.<sup>2</sup>

**Air Pollution:** Consumers Energy, a CMS Energy subsidiary, operates some of the dirtiest power plants in Michigan, emitting pollutants that cause smog (NO<sub>x</sub>), soot (SO<sub>2</sub>) and global warming (CO<sub>2</sub>).

**Emissions from CMS Energy’s Coal Plants (2001)**

	SO <sub>2</sub> (tons)	CO <sub>2</sub> (tons)	NO <sub>x</sub> (tons)
J.H.Campbell	43,513 (70 <sup>th</sup> )	10,244,755 (60 <sup>th</sup> )	14,722 (100 <sup>th</sup> )
J.R. Whiting	11,580	2,606,032	3,730
J.C. Weadock	9,567	2,511,939	3,746
B.C. Cobb	12,837	2,366,310	3,166
Dan E. Karn	20,862	4,886,694	8,759

Source: EPA’s Acid Rain Database. Rank of power plants in top 100 nationally for emissions in parentheses.



## Energy Policy: Throwing Good Money After Bad Actors

CMS Energy stands to benefit from several of the provisions in the House and Senate energy bills, including:

**Handouts for Dirty Power.** Both the House and Senate energy bills include tax breaks and subsidies for so-called “clean” coal technology. There is no such thing as “clean” coal, as coal pollutes air, land and water from the point of mining to combustion. The Senate bill contains \$1.9 billion in tax breaks for “clean” coal; the House bill contains \$3 billion in tax breaks and an additional \$2.5 billion in subsidies for research and development.

**Opening the Door to More ‘Enrons’.** The Senate energy bill repeals the pro-consumer Public Utility Holding Company Act. CMS Energy signed on to a March 2001 letter to Vice President Cheney advocating the repeal of PUHCA. The American Public Power Association predicts that repealing PUHCA will allow multi-state holding companies to “escape effective regulatory oversight,” leaving “consumers at risk of severe market power abuses.”<sup>3</sup> Repealing PUHCA removes accountability and transparency from the energy sector at a time when evidence suggests that energy companies, such as Enron and CMS Energy, have engaged in sham energy trades to boost their bottom line.

## New Handouts for Nuclear Power.

Consumers Energy operates the Palisades nuclear power plant near South Haven, Michigan and stands to benefit from the massive subsidies for nuclear power in the House and Senate energy bills. The House energy bill contains \$2.9 billion in research subsidies and tax breaks for the nuclear industry. The Senate energy bill contains \$1.1 billion in tax breaks and proposes allocating additional funding for research into reprocessing spent nuclear fuel and other dangerous technology.

**Giveaways to Big Oil and Gas.** CMS Energy and its subsidiary, Consumers Energy, operate more than 25,000 miles of natural gas transmission and distribution pipelines. As such, CMS Energy could benefit from the enormous tax breaks and subsidies for the oil and gas industry in the House and Senate energy bills. The House energy bill includes \$23.7 billion in tax breaks and subsidies for the oil and gas industry; the Senate energy bill contains \$5.6 billion.



## CMS Energy's Political Influence

CMS Energy won pro-nuclear and pro-fossil fuel policy in the House and Senate energy bills by helping to elect industry-friendly Members of Congress, buying access with campaign contributions and lobbyists, and tapping into its high level of access with the Bush administration.

### CMS Energy's Lobbying Expenses and Contributions to Federal Candidates

	Total
PAC \$ (2000-2002 cycles)	\$455,540
Hard \$ to Energy Bill Conferees* (2000-2002 cycles)	\$95,450
Soft \$ (2000-2002 cycles)	\$161,675
Lobbying Expenses 2001	\$2,000,000

Data collected from [www.opensecrets.org](http://www.opensecrets.org) and Senate Office of Public Records at <http://sopr.senate.gov>.

\* Includes PAC money and individual hard money contributions

### Access to the Bush Administration

• CMS Energy's CEO, William T. McCormick, Jr., sits on the Electricity Advisory Board, which was

set up by Energy Secretary Spencer Abraham to advise him on electricity policy issues.<sup>4</sup>

• McCormick met with Abraham in March 2001 as a representative of the Nuclear Energy Institute and again in July 2001, a month before the House of Representatives was set to vote on H.R. 4, energy legislation closely modeled after the administration's energy plan.<sup>5</sup>

• William McCormick gave \$100,000 to the Bush-Cheney 2001 Presidential Inaugural Committee.<sup>6</sup>

• CMS Energy had contact with Vice President Cheney's energy task force eight times, according to an analysis by NRDC.<sup>7</sup>



## Company Background

CMS Energy Corporation is an integrated energy company, which has as its primary business operations an electric and natural gas utility, natural gas pipeline systems, independent power generation, and energy marketing, services and trading. CMS Energy is the holding company for Consumers Energy, a public utility providing electric and gas service in Michigan.

**Headquarters:** Dearborn, MI

**Revenues (1/1/02-6/30/02):** \$4.8 billion<sup>8</sup>

**CEO Salary in 2001:** Not available

**Company Media Relations:**

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<sup>1</sup> "Berger & Montague, P.C. Sues on Behalf of Investors Who Purchased CMS Energy Corporation Securities Between August 3, 2000 and May 10, 2002." Press release, Berger & Montague. July 8, 2002.

<sup>2</sup> Krissah Williams. "16 of 691 Firms Missed Deadline." *Washington Post*. August 22, 2002.

<sup>3</sup> American Public Power Association Issue Brief, "Congress Must Act to Solve the Wholesale Electricity Market Crisis." March 2001.

<sup>4</sup> Department of Energy, <http://www.energy.gov/HQPress/releases01/decpr/ElectricityAdvisoryBoardMembers.html>.

<sup>5</sup> Center for Responsive Politics, [http://www.opensecrets.org/alerts/v6/alertv6\\_48.asp](http://www.opensecrets.org/alerts/v6/alertv6_48.asp) and [http://www.opensecrets.org/news/energy\\_task\\_force/doelist.asp](http://www.opensecrets.org/news/energy_task_force/doelist.asp).

<sup>6</sup> Center for Responsive Politics, <http://www.opensecrets.org/2000elect/other/bush/inaugural.asp>.

<sup>7</sup> NRDC, <http://www.nrdc.org/media/pressreleases/020521.asp>.

<sup>8</sup> CMS Energy website, <http://www.cmsenergy.com/Invest/>.