

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

In re CMS ENERGY ERISA LITIGATION

Master File No. 02-72834

CLASS ACTION

**NOTICE OF CLASS ACTION SETTLEMENT**

**Your legal rights might be affected  
if you are a member of the following class:**

ALL PARTICIPANTS IN THE EMPLOYEES' SAVINGS PLAN OF CONSUMERS ENERGY CO. (THE "PLAN") AND THEIR BENEFICIARIES, EXCLUDING THE DEFENDANTS, FOR WHOSE ACCOUNTS THE FIDUCIARIES OF THE PLAN MADE OR MAINTAINED INVESTMENTS IN CMS ENERGY CORPORATION STOCK THROUGH THE PLAN'S FUND C INVESTMENT FUND, THE FUND CS INVESTMENT FUND, THE FUND CE INVESTMENT FUND, AND THE TRASOP FUND (COLLECTIVELY THE "CMS STOCK FUNDS") OR OTHERWISE BETWEEN AUGUST 3, 2000 AND DECEMBER 27, 2004.

**A FEDERAL COURT AUTHORIZED THIS NOTICE.  
THIS IS NOT A SOLICITATION FROM A LAWYER.  
YOU HAVE NOT BEEN SUED.**

- The *Court* has preliminarily approved a proposed settlement of a class action lawsuit brought under the Employee Retirement Income Security Act (often referred to as "ERISA") (the "*Settlement*"). The *Settlement* will provide for payments to the Employees' Savings Plan of Consumers Energy Company (the "*Plan*") and for allocation of those payments to the accounts of members of the *Settlement Class* who had portions of their *Plan* accounts invested in *Company* stock.
- The *Court* has scheduled a hearing on final approval of the *Settlement* and on *Named Plaintiffs'* motion for attorneys' fees and expenses and for compensation to the *Named Plaintiffs*. That hearing before United States District Judge George Caram Steeh has been scheduled for Thursday, June 15, 2006 at 2:00 p.m., at the United States District Court, Eastern District of Michigan, Detroit, Michigan 48226.
- This Notice contains summary information with respect to the *Settlement*. The terms and conditions of the *Settlement* are set forth in a Class Action Settlement Agreement (the "*Settlement Agreement*"). Capitalized and italicized terms used in this Notice but not otherwise defined herein shall have the meanings assigned to them in the *Settlement Agreement*. The *Settlement Agreement*, and additional information with respect to this lawsuit and the *Settlement*, are available at [www.kellersettlements.com](http://www.kellersettlements.com) or from *Class Counsel* listed in response to Question No. 13 below. *Class Counsel* have established a toll-free phone number to receive your comments and questions: 1-(800)-314-0805.

**PLEASE READ THIS NOTICE CAREFULLY AND COMPLETELY. IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS TO WHOM THIS NOTICE IS ADDRESSED, THE SETTLEMENT WILL AFFECT YOUR RIGHTS. YOU ARE NOT BEING SUED IN THIS MATTER. YOU DO NOT HAVE TO APPEAR IN COURT, AND YOU DO NOT HAVE TO HIRE AN ATTORNEY IN THIS CASE. IF YOU ARE IN FAVOR OF THE SETTLEMENT, YOU NEED NOT DO ANYTHING. IF YOU DISAPPROVE, YOU MAY OBJECT TO THE SETTLEMENT PURSUANT TO THE PROCEDURES DESCRIBED BELOW.**

**YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT:**

<p><b>YOU CAN DO NOTHING.</b></p> <p><b>NO ACTION IS NECESSARY TO RECEIVE PAYMENT.</b></p>	<p>If the <i>Settlement</i> is approved by the <i>Court</i> and you are a member of the <i>Settlement Class</i>, you will not need to do anything to receive a payment. The portion, if any, of the <i>Settlement Fund</i> to be allocated to your <i>Plan</i> account will be calculated as part of the implementation of the <i>Settlement</i>.</p> <p>If you are a current <i>Plan</i> participant, any share of the <i>Settlement Fund</i> to which you are entitled will be deposited into your <i>Plan</i> account. If you no longer are a <i>Plan</i> participant and are entitled to share in the <i>Settlement Fund</i>, a <i>Plan</i> account will be established for you, if necessary, and you will be notified of such account.</p>
<p><b>OBJECT</b></p> <p><b>(BY JUNE 8, 2006)</b></p>	<p>If you wish to object to any part of the <i>Settlement</i>, you may (as discussed below) write to the <i>Court</i> and counsel about why you do not approve of the <i>Settlement</i>.</p>
<p><b>GO TO A HEARING</b></p> <p><b>(TO BE HELD AT 2:00 P.M. ON JUNE 15, 2006)</b></p>	<p>If you have submitted a written objection to the <i>Settlement</i> to the <i>Court</i> and counsel, you may (but do not have to) attend the <i>Court</i> Hearing about <i>Settlement</i> and present your objections to the <i>Court</i>. You may attend the Hearing even if you do not file a written objection, but you will only be allowed to speak at the Hearing if you file written comments in advance of the Hearing.</p>

- These rights and options – **and the deadlines to exercise them** – are explained in this Notice.
- The *Court* still has to decide whether to approve the *Settlement*. Payments will be made only if the *Court* approves the *Settlement* and that approval is upheld in the event of any appeals.

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This litigation (the “*Action*”) is a consolidated case in which *Plaintiffs* allege that the *Defendants* breached fiduciary duties they owed to the participants in and beneficiaries of the *Plan*. Copies of the most recent *Complaint* and other documents filed in the *Action* are available at [www.kellersettlements.com](http://www.kellersettlements.com).

## SUMMARY OF SETTLEMENT

A *Settlement Fund* consisting of \$28 million in cash, plus interest, is being established in the *Action*; in addition, the *Company* is providing equitable relief in the form of covenants that it (i) will not take any action for a period of four years after final approval of the *Settlement* to restrict the *Settlement Class*' ability to sell *Company* stock that is in or may be added to the *Plan* except in instances required to comply with applicable law or internal compliance procedures; (ii) will take steps to see that individuals identified as fiduciaries to the *Plan* are provided with knowledge of their ERISA imposed duties and obligations, including providing *Plan* fiduciaries with regularly updated materials regarding *Plan* management and administration that sets forth their duties and responsibilities under ERISA; (iii) will identify the fiduciary structure of the *Plan* in the Plan Document and Summary Plan Description such that it is clear who exercises fiduciary responsibility for the *Plan* and *Plan* assets; (iv) will provide contact information for participants or beneficiaries with questions regarding the *Plan* and *Plan* assets in the Plan Document and Summary Plan Description, to the extent not already provided in those documents; and (v) will clearly state in the *Plan* materials the importance of diversification, and will encourage participants to regularly evaluate whether their retirement plan assets are sufficiently diversified to protect against large losses, to the extent not already accomplished by materials prepared by the current *Plan* record keeper and trustee, Fidelity. The net cash amount in the *Settlement Fund*, after payment of any taxes, expenses, approved attorneys' fees and costs, and compensation to the *Named Plaintiffs*, will be paid to the *Plan* and be allocated to *Settlement Class* members according to a *Plan of Allocation* to be approved by the *Court*.

As with any litigated case, *Plaintiffs* would face an uncertain outcome if the *Action* were to continue against the *Defendants*. Continued litigation of the *Action* against these *Defendants* could result in a judgment or verdict greater or lesser than the recovery under the *Settlement Agreement*, or in no recovery at all.

Throughout this litigation, the *Named Plaintiffs* and the *Defendants* have disagreed on both liability and damages, and they do not agree on the amount that would be recoverable even if the *Plaintiffs* were to prevail at trial. The *Defendants* have denied and continue to deny the claims and contentions alleged by the *Named Plaintiffs*. They deny that they are liable at all to the *Settlement Class* and that the *Settlement Class* or the *Plan* have suffered any damages for which the *Defendants* could be legally responsible. Nevertheless, the *Defendants* have taken into account the uncertainty and risks inherent in any litigation, particularly in a complex case such as this, and have concluded that it is desirable that the *Action* be fully and finally settled as to them on the terms and conditions set forth in the *Settlement Agreement*.

### 1. Why did I get this Notice package?

You or someone in your family are or may have been a participant in or beneficiary of the *Plan*. The *Court* caused this Notice to be sent to you because, if you fall within that group, you have a right to know about the *Settlement* and about all of your options, before the *Court* decides whether to approve the *Settlement*. If the *Court* approves the *Settlement*, and after any objections and appeals are resolved, the net amount of the *Settlement Fund* will be paid to the *Plan* and then allocated among *Settlement Class* members according to a *Court*-approved *Plan of Allocation*. This Notice package describes the litigation, the *Settlement*, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The *Court* in charge of this case is the United States District Court for the Eastern District of Michigan. The people who sued are called the "*Named Plaintiffs*," and the people they sued are called "*Defendants*." The *Named Plaintiffs* in the *Action* are Roger Schilling, Karen Potter, and Danny Jordan. The *Defendants* are: the *Company* and the following *Persons* named as defendants in the *Complaint*: Kathleen R. Flaherty; Victor J. Fryling; Earl D. Holton; William U. Parfet; Kenneth L. Way; Kenneth Whipple; John B. Yasinsky; John M. Deutch; James J. Duderstadt; Preston D. Hopper; David W. Joos; William T. McCormick, Jr.; Tamela W. Pallas; Percy A. Pierre; Allan M. Wright; Legal Representative of the Estate of Thomas McNish; and Laura L. Mountcastle. The legal action that is the subject of this Notice and the *Settlement* is known as *In re CMS Energy ERISA Litigation*, Master File No. 02-72834 (the "*Action*").

### 2. What is the lawsuit about?

The *Action* claims that the *Defendants* were fiduciaries of the *Plan* and violated fiduciary duties under ERISA that they owed to current and former participants in and beneficiaries of the *Plan*. In the *Complaint*, *Named Plaintiffs* asserted causes of action for the losses they allege were suffered by the *Plan* as the result of the alleged breaches of fiduciary duty by the *Defendants*.

During the *Class Period*, CMS stock (through funds that invested primarily in CMS stock) ("*CMS Stock Funds*") was offered as a *Plan* investment option for participant contributions. In addition, during part of the *Class Period*, CMS made restricted matching contributions that were invested in the *CMS Stock Funds* and credited to *Plan* participants' accounts. The

*Action* alleges that CMS and some of its individual officers and employees had the discretion to prevent further investments in these funds and to sell the *Plan's* holdings in these funds, and that they breached fiduciary duties by not exercising that discretion at the point that CMS stock no longer was a prudent *Plan* investment. *Named Plaintiffs* also assert that certain *Defendants* violated their alleged fiduciary duties by misrepresenting information and failing to provide *Plan* participants with complete and accurate information about the *Company*. *Named Plaintiffs* also assert that certain directors failed to properly appoint and monitor members of the *Company's* Finance and Pension Committees.

The *Defendants* deny that they have liability to the *Plan* or its participants or beneficiaries. If the litigation were to continue, the *Defendants* would raise numerous defenses to liability, including the following:

- They were not fiduciaries of the *Plan*, or, if they were fiduciaries, their fiduciary duties did not extend to the matters at issue in the *Action*;
- *Company* stock was at all relevant times a prudent investment for the *Plan* and its participants;
- To the extent they were fiduciaries as to the matters at issue in the *Action*, they fully discharged all fiduciary duties imposed on them by ERISA;
- Even if they failed to discharge one or more of their ERISA fiduciary duties, any such breach of fiduciary duty did not cause the losses alleged by the *Plaintiffs*; and
- The relief sought by the *Plaintiffs* in the *Action* is not permitted by ERISA.

*Class Counsel* have conducted an extensive investigation of the allegations in the *Action*. In addition, through that investigation and through discovery of information in the *Action*, *Class Counsel* have obtained and reviewed tens of thousands of documents, including documents and other materials governing the *Plan*, communications with *Plan* participants, internal CMS documents regarding the *Plan*, SEC filings, press releases, public statements, news articles, and other documents. *Class Counsel* have prepared for, taken, attended, and/or summarized over thirty depositions, and attended many *Court* hearings.

*Class Counsel* have drafted and served on *Defendants* numerous discovery requests, and the *Named Plaintiffs* have each had their depositions taken by *Defendants*. *Class Counsel* filed a motion to certify the *Class*, fully briefed and argued it, and the *Court* granted the motion and certified the *Class* by Order entered on December 27, 2004.

### **3. Why is this case a class action?**

In a class action, one or more plaintiffs, called “*Named Plaintiffs*,” sue on behalf of people who have similar claims. All of the individuals on whose behalf the *Named Plaintiffs* are suing are “*Class Members*,” and they are also referred to herein as members of the *Settlement Class*. One court resolves the issues for all *Class Members*. U.S. District Judge George Caram Steeh is presiding over this case.

### **4. Why is there a Settlement?**

This *Settlement* is the product of extensive negotiations between *Class Counsel* and the *Defendants' counsel*, including the services of experienced mediators. Throughout the settlement negotiations, the *Plaintiffs* and the *Defendants* were advised by various consultants and experts, including individuals with expertise in ERISA fiduciary liability issues, insurance coverage issues, and estimating potential damages in cases involving ERISA fiduciary liability. The *Court* has not reached any final decisions in connection with *Plaintiffs' claims* against the *Defendants*. Instead, the *Plaintiffs* and the *Defendants* have agreed to a settlement. In reaching the *Settlement*, they have avoided the cost and time of a trial. As with any litigated case, the *Plaintiffs* would face an uncertain outcome if this case went to trial. On the one hand, continuation of the case against the *Defendants* could result in a verdict greater than this *Settlement*. On the other hand, continuing the case against them could result in a verdict for less money than *Plaintiffs* have obtained in this *Settlement*, or even no recovery at all. Based on these factors, the *Named Plaintiffs* and their attorneys believe the *Settlement* is best for all *Class Members*. Additional information concerning the *Settlement* and these factors is available in the motion for preliminary approval of the *Settlement Agreement*, which may be obtained at [www.kellersettlements.com](http://www.kellersettlements.com), or directly from the Clerk of the United States District Court for the Eastern District of Michigan.

### **5. How do I know whether I am part of the Settlement?**

The proceeds of this *Settlement* will be allocated only to *Class Members*, and then only according to a *Court*-approved *Plan of Allocation*. You are a *Class Member* if you fall within the “*Settlement Class*” approved by United States District Judge George Caram Steeh:

All participants in the Employees' Savings and Incentive Plan of Consumers Energy Co. (the "Plan") and their beneficiaries, excluding the Defendants, for whose accounts the fiduciaries of the Plan made or maintained investments in CMS Energy Corporation stock through the Plan's Fund C Investment Fund, the Fund CS Investment Fund, the Fund CE Investment Fund, and the TRASOP Fund (collectively the "CMS Stock Funds") or otherwise between August 3, 2000 and a date to be determined.

For the purposes of the *Settlement Agreement*, the parties have stipulated to a class period end-date of December 27, 2004, the date on which the Court granted Plaintiffs' motion for class certification. The parties have also identified the *Plan* in the *Settlement Agreement* as Employees' Savings Plan of Consumers Energy Company, as has been or may later be amended, individually and collectively, and any trust created under any such *Plan*.

If you are a *Class Member*, the amount of money you will receive, if any, will depend upon the *Court*-approved *Plan of Allocation*, described in Section 7 below.

## **6. What does the Settlement provide?**

A *Settlement Fund* consisting of \$28 million in cash, plus interest, is being established in the *Action*. The net amount in the *Settlement Fund*, after payment of, and establishment of reserves for, any taxes and *Court*-approved costs, attorneys' fees, and expenses, including any *Court*-approved compensation to be paid to the *Named Plaintiffs*, will be paid to the *Plan*, and, after payment of implementation expenses, the remaining amount will be allocated to members of the *Class* according to a *Plan of Allocation* to be approved by the *Court*. Allocations will be made to the *Plan* accounts of members of the *Class*. *Plan* accounts may be created for those *Class Members* who no longer have *Plan* accounts and who are entitled to an award under the *Plan of Allocation*. Generally, *Named Plaintiffs* and the *Class Members* will release all claims: (i) against the *Defendants* arising out of conduct during the *Class Period* that were or could have been asserted in the *Action*; (ii) against the applicable fiduciary liability Insurance Policy, AEGIS Policy No. F0136A1A01; (iii) that would be barred by principles of *res judicata* had the claims asserted in the *Complaint* been fully litigated and resulted in a final judgment or order; (iv) that pertain to any decision made by any of the *Parties* to enter into or approve the *Settlement Agreement*; or (v) that pertain to any conduct related to the direction to calculate, the calculation of, and/or the allocation of the *Class Settlement Amount* to the *Plan* or any participant or beneficiary of the *Plan* pursuant to the *Plan of Allocation*. The *Settlement Agreement* does not release, bar, waive, or otherwise affect any *Claim* that has been asserted in the *Securities Action*, and the parties reserve all rights with respect to positions they may take on that question in that action.

The above description of the operation of the *Settlement* and the release is only a summary. The governing provisions are set forth in the *Settlement Agreement* (including its exhibits), which may be obtained at [www.kellersettlements.com](http://www.kellersettlements.com), or by contacting *Class Counsel*. For additional information, see the response to Question No. 18 below.

## **7. How much will my payment be?**

Plaintiffs will submit a detailed *Plan of Allocation* to the *Court* for approval prior to the Fairness Hearing. The *Plan of Allocation*, which, after filing, may be obtained at [www.kellersettlements.com](http://www.kellersettlements.com), or by contacting *Class Counsel*, will describe the manner by which the *Settlement* proceeds paid into the *Plan* (the "*Net Proceeds*") will be distributed to *Class Members*. In general terms, the *Net Proceeds* will be allocated to *Class Members* on a *pro rata* basis such that the amount received by each *Class Member* will depend on his or her calculated loss, relative to the losses of other *Class Members*, related to *Plan* investments in *Company* stock. Because the *Net Proceeds* are less than the total losses alleged to be suffered in the *Action*, each *Class Member's* proportionate recovery will be less than his or her alleged loss. If your proportionate recovery is *de minimis* (less than \$10), it may be forfeited to the *Plan* or distributed *pro rata* to other *Class Members*. You are not responsible for calculating the amount you may be entitled to receive under the Settlement. This calculation will be done as part of the implementation of the *Settlement*, and will be based on reasonably available *Plan* data.

The *Defendants*, to the extent they were participants or beneficiaries of the *Plan*, will be excluded from the *Plan of Allocation*.

## **8. How can I get a payment?**

You do not need to file a claim. If you are a *Class Member* entitled to a share of the *Net Proceeds*, and have a current *Plan* account, your share will be deposited in your *Plan* account. If you are a former *Plan* participant, an account may be established for you in the *Plan*. If you are a former participant and have not provided the *Plan* with your current address, please send an email to [cmssettlement@gardencitygroup.com](mailto:cmssettlement@gardencitygroup.com).

**9. When would I get my payment?**

Payment is conditioned on several matters, including the *Court's* approval of the *Settlement* and such approval becoming final and no longer subject to any appeals to any court. Upon satisfaction of various conditions, the net *Settlement Fund* will be paid to the *Plan* and allocated to the accounts of members of the *Settlement Class* pursuant to the *Plan of Allocation* (described in the Answer to Question No. 7 above) as soon as possible after final approval has been obtained for the *Settlement* (which includes exhaustion of any appeals). Any appeal of the final approval could take several years. Any accrued interest on the *Settlement Fund* will be included in the amount paid to the *Plan* and allocated to the *Plan* accounts of members of the *Settlement Class*. The *Settlement Agreement* may be terminated on several grounds, including if the *Court* does not approve or modifies the *Settlement*. Should the *Settlement Agreement* be terminated, the *Settlement* will be terminated, and the *Action* will proceed as if the *Settlement* had not been reached.

**10. Can I get out of the Settlement?**

You do not have the right to exclude yourself from the *Settlement*. The *Action* was certified by Order entered on December 27, 2004 under Federal Rules of Civil Procedure 23(b)(1)(A) and 23(b)(1)(B) because the *Court* determined the requirements of those rules were satisfied. Thus, it is not possible for any *Class Members* to exclude themselves from the *Settlement*. As a *Class Member*, you will be bound by any judgments or orders that are entered in the *Action* for all claims that were or could have been asserted in the *Action* or are otherwise included in the release under the *Settlement*. Although you cannot opt out of the *Settlement*, you can object to the *Settlement* and ask the *Court* not to approve it. See Answer to Question No. 13 below.

**11. Do I have a lawyer in the case?**

The *Court* has appointed the law firms of Keller Rohrback L.L.P.; Campbell, Harrison and Dagley, LLP; Malakoff, Doyle and Finberg, P.C.; and the McTigue Law Firm as *Class Counsel* for *Named Plaintiffs* in the *Action*. These lawyers are called "*Class Counsel*." You will not be charged directly by these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

**12. How will the lawyers and Named Plaintiffs be paid?**

On or before May 16, 2006, *Class Counsel* will file a motion for the award of attorneys' fees and expenses for *Class Counsel*. This motion will be available for review on [www.kellersettlements.com](http://www.kellersettlements.com), [www.mdfpc.com](http://www.mdfpc.com), and [www.mctiguelaw.com](http://www.mctiguelaw.com). This motion will be considered at the *Fairness Hearing*. *Class Counsel* will limit their application for an award of attorneys' fees to not more than 30% of the *Settlement Fund*, plus reimbursement of expenses incurred in connection with the prosecution of the *Action*.

The *Named Plaintiffs* in the *Action* will share in the allocation of the money paid to the *Plan* on the same basis and to the same extent as all other members of the *Settlement Class*, except that, in addition, the *Named Plaintiffs* Roger Schilling, Karen Potter, and Danny Jordan each may apply to the *Court* for compensation up to \$15,000. Each of these *Named Plaintiffs* actively participated in discovery, met with counsel to prepare for depositions, and were deposed at length. Any compensation awarded to *Named Plaintiffs* by the *Court* will be payable from the *Settlement Fund*.

You can tell the *Court* that you do not agree with the *Settlement* or some part of it, including the attorneys' fees and expenses the attorneys intend to seek, and/or the compensation to *Named Plaintiffs*.

**13. How do I tell the Court that I don't like the Settlement?**

If you are a *Class Member*, you can object to the *Settlement* if you do not like any part of it. You can give reasons why you think the *Court* should not approve it. To object, you must send a letter or other written statement saying that you object to the *Settlement* in *In re CMS Energy ERISA Litigation*, No. 02-72834. Be sure to include your name, address, telephone number, signature, and a full explanation of all reasons you object to the *Settlement*. **Your written objection must be filed with the Court, and mailed to the counsel listed below, postmarked (and sent via facsimile) by no later than June 8, 2006:**

**Filed with the Clerk of the Court:**

David J. Weaver, Clerk of Court  
United States District Court, Eastern District of Michigan  
231 West Lafayette Blvd., Fifth Floor  
Detroit, MI 48226  
(313) 234-5005

**Mailed (and faxed) to each of the following designated *Class Counsel* and *Defendants' Counsel*:**

Lynn Sarko  
Keller Rohrback L.L.P.  
1201 Third Avenue, Ste 3200  
Seattle, WA 98101-3052  
Fax: (206) 623-3384

Ellen M. Doyle  
Malakoff, Doyle and Finberg, P.C.  
437 Grant Street, Ste. 200  
Pittsburgh, PA 15219  
Fax: (412) 281-3262

Wilber H. Boies  
McDermott Will & Emery LLP  
227 W. Monroe Street., Ste. 4400  
Chicago, IL 60606-5096  
Fax: (312) 984-7700

**14. *When and where will the Court decide whether to approve the Settlement?***

The *Court* will hold a *Fairness Hearing* at 2:00 p. m. on Thursday, June 15, 2006, at the United States District Court for the Eastern District of Michigan, 231 West Lafayette Blvd., Detroit, MI 48226. At that hearing, the *Court* will consider whether the *Settlement* is fair, reasonable, and adequate. If there are objections, the *Court* will consider them. After the *Fairness Hearing*, the *Court* will decide whether to approve the *Settlement*. The *Court* will also rule on the motions for attorneys' fees and expenses. We do not know how long it will take the *Court* to issue these decisions.

**15. *Do I have to come to the hearing?***

No. *Class Counsel* will answer questions the *Court* might have. You are welcome to come at your own expense. If you send an objection, you do not have to come to *Court* to talk about it. As long as you mailed your written objection on time, it will be before the *Court* when the *Court* considers whether to approve the *Settlement* as fair, reasonable and adequate. You also may pay your own lawyer to attend the *Fairness Hearing*, but such attendance is not necessary.

**16. *May I speak at the hearing?***

If you are a *Class Member*, you may ask the *Court* for permission to speak at the *Fairness Hearing*. To do so, you must send a letter or other paper called a "Notice of Intention to Appear at Fairness Hearing in *In re CMS Energy ERISA Litigation*, Master File No. 02-72834." Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be served on the designated *Class Counsel* listed in the Answer to Question No. 13 above, postmarked and sent via facsimile no later than Thursday, June 8, 2006, and must be filed with the Clerk of the *Court* at the address listed in the Answer to Question No. 13, postmarked no later than Thursday, June 8, 2006.

**17. *What happens if I do nothing at all?***

If you do nothing and you are a *Class Member*, you will participate in the *Settlement* of the *Action* as described above in this Notice if the *Settlement* is approved.

**18. *How do I get more information?***

This Notice summarizes the proposed *Settlement*. The complete *Settlement* is set forth in the *Settlement Agreement*. You may obtain a copy of the *Settlement Agreement* by making a written request to *Class Counsel* listed in response to Question No. 13 above. Copies of the *Settlement Agreement*, as well as the *Preliminary Motion* seeking preliminary approval of the *Settlement Agreement*, and the *Preliminary Approval Order*, may also be obtained at [www.kellersettlements.com](http://www.kellersettlements.com). The *Settlement Agreement* also was filed with the Clerk of the United States District Court for the Eastern District of Michigan, and may be obtained from the Clerk's office directly.

*Class Counsel* also have established a toll-free phone number to receive your comments and questions: 1-(800)-314-0805.