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Shareholders Urge CMS to Come Clean on Coal Ash

Michigan utility pressed to reduce risk to investors in wake of Tennessee disaster

JACKSON, Mich., May 17 – CMS Energy, whose coal ash landfill at the Karn-Weadock plant has contaminated groundwater and is leaking heavy metals into Saginaw Bay, faces a shareholder proposal this week asking the company to come clean on its efforts to reduce the environmental and health hazards of coal ash.

The proposal, to be presented Thursday at CMS's annual shareholder meeting in Jackson, asks that the utility prepare a report on its efforts to reduce the environmental and health hazards of coal ash stored in ponds, landfills and mines. The proposal was filed by As You Sow, a shareholder advocacy group based in San Francisco

"CMS has among the oldest coal ash ponds and landfills in the country," said Amy Galland, research director of As You Sow. "Estimates to contain the damage from Karn-Weadock are over \$50 million. Shareholders are concerned with how the company is dealing with this problem and better managing risks at all of its facilities to avoid future contamination and cleanup costs."

Coal ash is a byproduct of coal-fired power plants that contains arsenic, mercury, lead, and other toxins left after combustion or filtered out of smokestack scrubbers. The health, environmental and financial risks of managing coal ash came to light when the dam holding back a 1.1 billion-gallon coal ash pond of the Tennessee Valley Authority burst and covered over 300 acres with toxic sludge in December 2008. TVA has estimated spill-related costs at \$1.2 billion and has been the target of over 50 lawsuits since the spill.

In response to the TVA disaster, this month the U.S. Environmental Protection Agency opened a comment period on two proposals for regulating coal ash under the Resource Conservation and Recovery Act, or RCRA. The more protective of the options under consideration would federally regulate and classify coal ash as a "special" waste, while the other leaves regulation to the states and enforcement to citizen lawsuits.

Almost half of CMS' electricity is currently generated by coal, and the company plans to build a new 900-megawatt plant. Galland said "the addition of another large coal-burning facility will only increase the risks CMS's practices pose to its communities, the environment, and shareholders."

Unlike other utilities, CMS does not disclose steps the company may be taking to mitigate these risks either at its wet or dry storage facilities.

"The TVA example shows us that compliance with current regulations is not enough to prevent risk," said Galland. "Before the dam breach, TVA was conducting more stringent inspections of its coal ash storage facilities than CMS. Shareholders want to know what the company is doing to prevent a TVA-like disaster beyond what is required by regulation. Investors deserve straight answers."

“Public health concerns have been raised about both wet and dry storage,” said Emily Stone, shareholder advocate at Green Century Capital Management in Boston. “Storing and disposing of coal ash in a dry form in secure landfills with synthetic linings and impermeable caps is recognized as a ‘best practice’ for risk mitigation, as it minimizes the possibility of contamination or spills.”

Green Century has filed a resolution at Southern Company of Atlanta on the same issue, which will be presented at a shareholders’ meeting May 26. Last month, As You Sow presented a similar coal ash resolution at a meeting of MDU Resources Group, parent of Montana-Dakota Utilities Co., which earned the votes of holders of 25.6 percent of MDU’s shares. Typically, first-time environmental resolutions get 5 to 7 percent, and shareholder advocates consider anything over 10 percent a success, as that level of support is often enough to change a company’s practices.

-30-

As You Sow (www.asyousow.org) is a non-profit organization dedicated to promoting corporate social responsibility through shareholder advocacy.