REDACTED VERSION
PURSUANT TO 35-A M.R.S.A. § 704(5)

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2002-148

April 29, 2002

CENTRAL MAINE POWER COMPANY
Appeal of Consumer Assistance Division
Decision #2001-11558

ORDER ON APPEAL

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

We uphold the decision of the Consumer Assistance Division (CAD) finding that Central Maine Power Company (CMP) customer **Mr. (customer)** is not currently responsible for a past due amount from an account his former spouse established in his name.

II. BACKGROUND

On December 3, 2001, **Mr. (customer)** disputed a charge of $550.44 transferred to his CMP account from a past due balance on an account previously established on Richardson Street in Bath, Maine. **Mr. (customer)'s** spouse established that account in his name in September 1998. At that time the couple was married but separated. On March 7, 2002, CAD issued its decision finding that **Mr. (customer)** was not liable for the amount because the couple was separated at the time and the wife was the sole resident at that location.

On March 13, 2002, CMP appealed CAD's decision arguing that CAD had not adequately considered the issue of whether **Mrs. (customer)** was **Mr. (customer)'s** agent at the time she set up the Richardson Street account or whether **Mr. (customer)** had assumed the debt as part of the divorce proceeding. CMP states that in June 2000, **Mrs. (customer)** indicated that her husband had agreed to the arrangement. It further claims it is likely that these issues will arise again if CMP places the unpaid balance on **Mrs. (customer)'s** current account.

III. DECISION

Chapter 81 (4)(F) contains the provisions related to transferring a former unpaid account balance to a new account. Specifically,

> A utility may require that the applicant pay an undisputed unpaid residential account balance with the utility that accrued within the past six years if the applicant was legally responsible for the debt. . . . A utility cannot require an applicant to pay for residential service provided in the name of another (for example, a separated spouse or co-tenant)

> unless a court or administrative agency has determined the applicant is legally obligated to pay for that service.

In this instance, the ambiguity about who is legally responsible to pay this account balance has occurred due to CMP's actions. CMP allowed **Mrs. (customer)** to place the account in her husband's name without any additional inquiry as to whether he had authorized her to do so. There is no evidence in CMP's records that **Mr. (customer)** was contacted or spoke with CMP. Under Maine law, there is no presumption that one spouse speaks as an agent for the other. CMP, by placing the account in the husband's name, ran the risk that **Mrs. (customer)** was without authority to do so. It is not the role of the Commission to determine if **Mr. (customer)** is legally obligated to pay this debt or if **Mrs. (customer)** in fact had authority or if some pattern of behavior led CMP to believe she had apparent authority. These determinations are to be made by a court applying the law of agency. *See e.g., Twin Island Development Corp. v. Winchester,* 512 A.2d 319, 327 (Me. 1986).

We further note that the CAD did obtain the divorce decree as part of its review. The decree makes the parties responsible for their own debts. However, this does not resolve the issue of whether **Mrs. (customer)** had the authority to incur the debt in his name. From the circumstances presented it seems likely that **Mr. (customer)** did not know about the debt until CMP attempted to transfer it to his account. CMP may wish to re-examine its policy of allowing persons to place an account in another person's name without verification that the other person has agreed to the arrangement. This is particularly the case in a situation as presented here, where the previous account had only been in **Mrs. (customer)'s** name and an account balance remained at that location.

Given that CMP has no evidence that **Mr. (customer)** authorized the account in his name or that he is legally obligated to pay the debt, we will not permit CMP to transfer the balance from the disputed account unless CMP obtains a court ruling that **Mr. (customer)** is legally responsible for the debt owed on account that his wife placed in his name.

Dated at Augusta, Maine, this 29th day of April, 2002.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Diamond

COMMISSIONER ABSENT: Nugent

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.

2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.

3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.