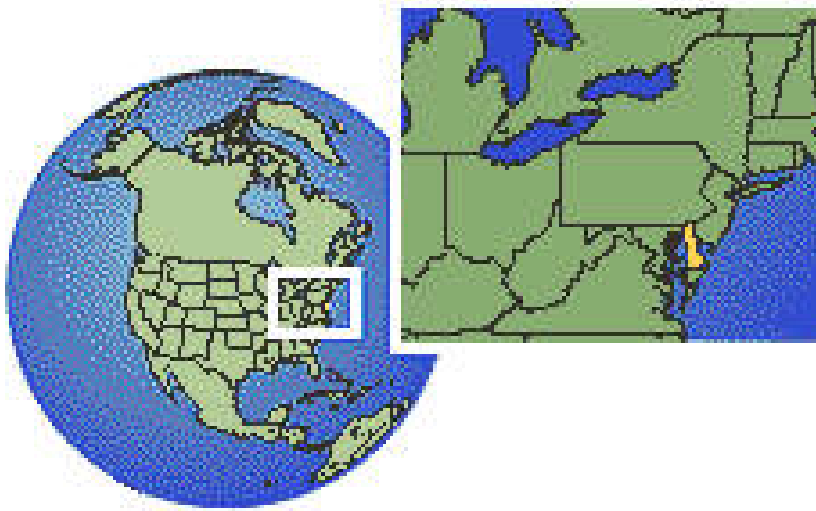


The Role of the Regulator and the Benefits of an Independent/Impartial Regulator



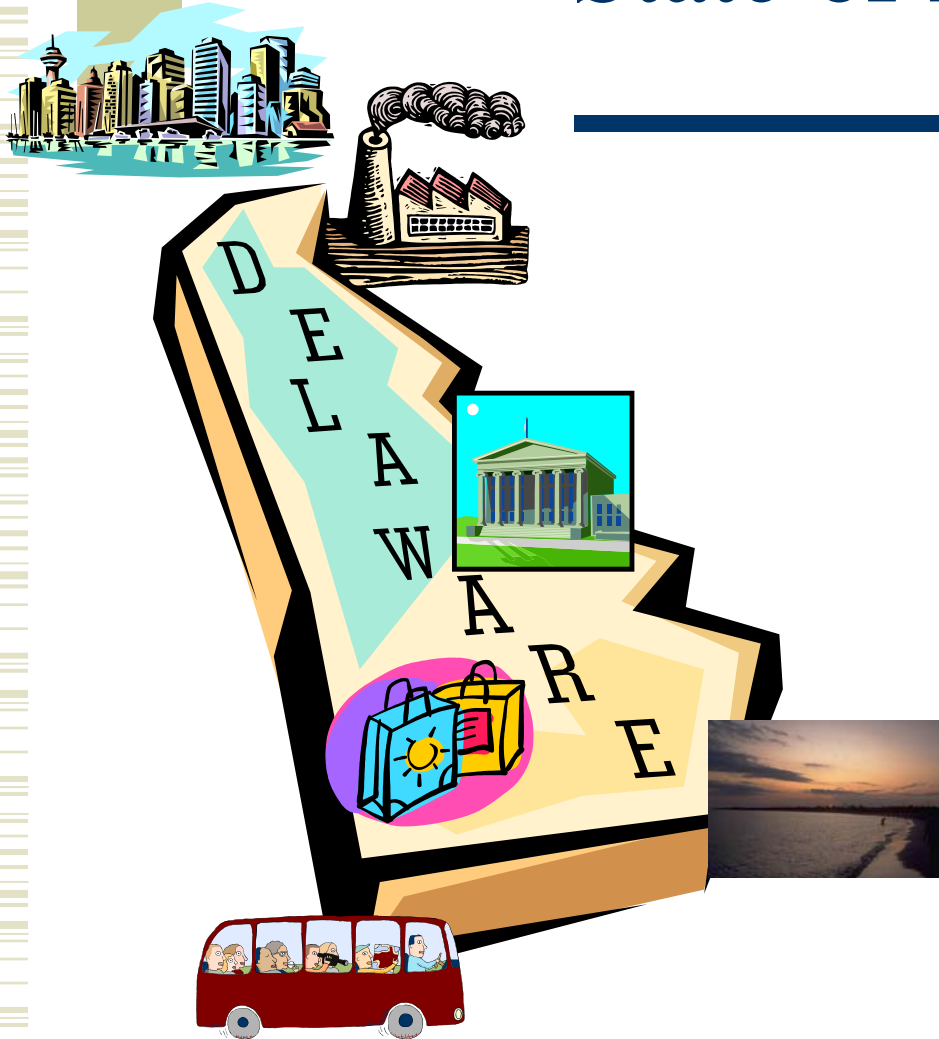
Arnetta McRae, Chair
Delaware Public Service Commission
Kilgali, Rwanda: October 25-26, 2004

State of Delaware



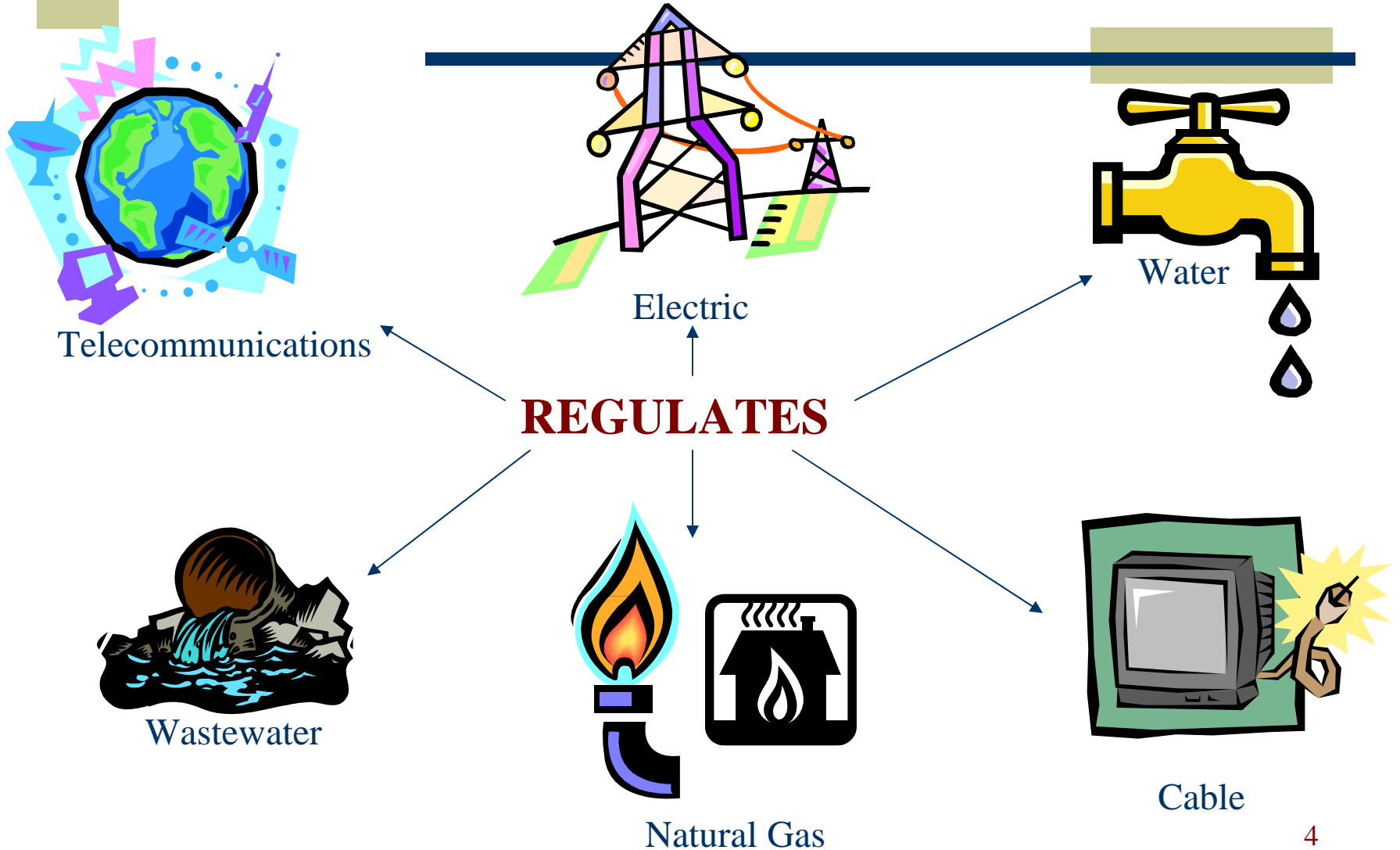
- ◆ Small Mid-Atlantic State
- ◆ Population of approximately 800,000
- ◆ Nicknamed “Small Wonder”

State of Delaware



- ◆ Industrial and Commercial Operations in the North
- ◆ Central Delaware – Seat of Government
- ◆ Atlantic Ocean borders south – popular tourist destination for shopping and beaches


Delaware Public Service Commission





Delaware Public Service Commission

- ◆ 5 part-time commissioners
- ◆ 28-30 full-time staff
 - Legal, finance, accounting, economics and engineering
 - Support personnel, including IT
- ◆ Temporary personnel contracted on an as needed basis
- ◆ Outside counsel and consultants frequently utilized



There Would Be
No Need for Regulators
If Markets Worked Perfectly



Historical Context



- ◆ Utilities generally considered “natural monopolies”
 - Economies of Scale
 - Capital intensive
 - Localized market
 - Lack of competitors



Utility Regulation



- ◆ Regulation acts as a substitute for competitive market forces
- ◆ Objective is to achieve competitive prices without sacrificing the benefits of economies of scale and scope
 - Utility pricing uses a Cost of Service Model where prices are set at levels that afford the utility an opportunity to recover costs plus a fair rate of return



Role of the Regulator



- ◆ Balance interests of diverse constituents with competing needs
- ◆ Remain Independent
- ◆ Ensure fairness
- ◆ Protect public welfare



Balance Interests



- ◆ Under Cost of Service Model, regulator focuses on establishing actual costs and appropriate return to set reasonable prices
- ◆ In transitional marketplace where competition is emerging, emphasis is on creating a level playing field for all market participants
- ◆ In both cases, policies and rules must be consistent with objectives



Independence



- ◆ Regulators are not market participants
- ◆ States employ various methods to encourage independence, including public elections

Independence (continued)

◆ In Delaware

- **Commissioners are appointed by the Governor and confirmed by the Senate**
- **Statute limits the number of commissioners affiliated with a single political party**
- **Terms are staggered to allow for both continuity and change**
- **Commission's powers are derived from statutes**
- **Terms are fixed for 5 year periods that are renewable; must show cause for removal during term**



Independence (continued)

- ◆ Benefits to Agency and Individual Regulators
 - Fosters credibility with market participants and the general public
 - Allows for objectivity in decision-making
 - Keeps focus on primary role of regulation
 - Promotes recognition of unique expertise of regulators



Ensure Fairness

- ◆ Avoid appearance of partiality
- ◆ Be aware of ex parte rules and sunshine laws
 - Commissioners may not have discussions with any party on substantive issues during an active case
 - Meetings must be noticed and conducted in public
 - Very rare occurrence when commissioners can meet in an executive (closed) session
- ◆ Resist biases that interfere with objective deliberations



Protect Public Welfare



- ◆ Monitor activities of utilities to insure that they do not engage in unfair pricing or other impermissible practices
- ◆ Require utilities to provide safe, adequate and reliable service
- ◆ Investigate complaints
- ◆ Participate in local, regional and national initiatives to improve market efficiency
- ◆ Retain rate-setting responsibility in market sectors where competition is absent or underdeveloped



Key Challenges



- ◆ Myriad of players
- ◆ Lack of consumer education
- ◆ Limited staff resources
- ◆ Complex Issues



In the present environment for utilities, there is one constant:
CHANGE

Regulators must recognize this reality and be equipped to meet the challenges it presents.