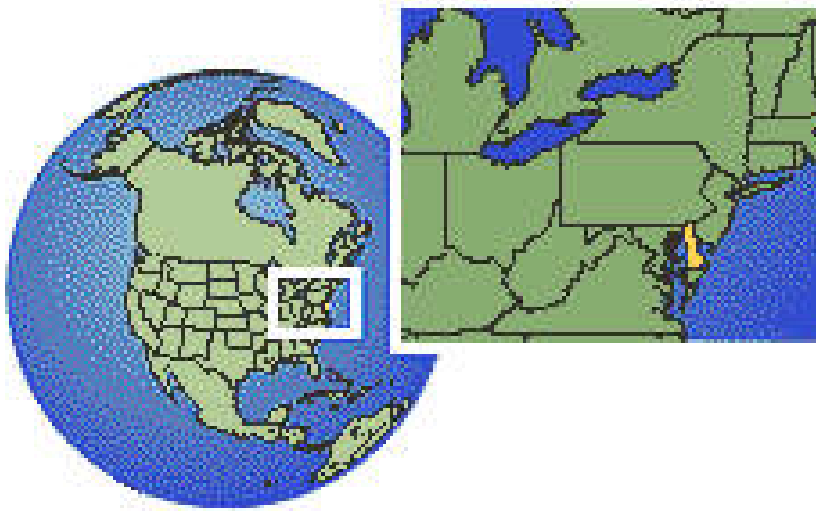


# **The Role of the Regulator and the Benefits of an Independent/Impartial Regulator**



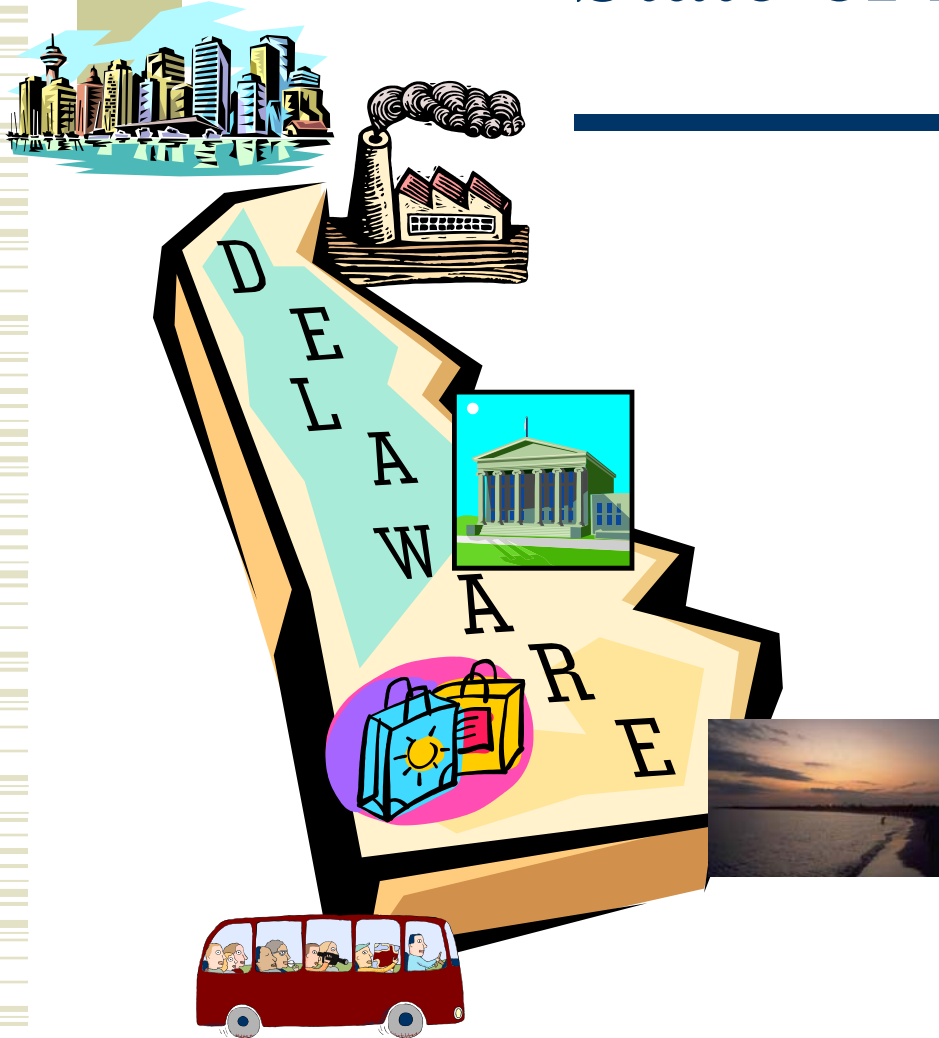
**Arnetta McRae, Chair  
Delaware Public Service Commission  
Kilgali, Rwanda: October 25-26, 2004**

# State of Delaware



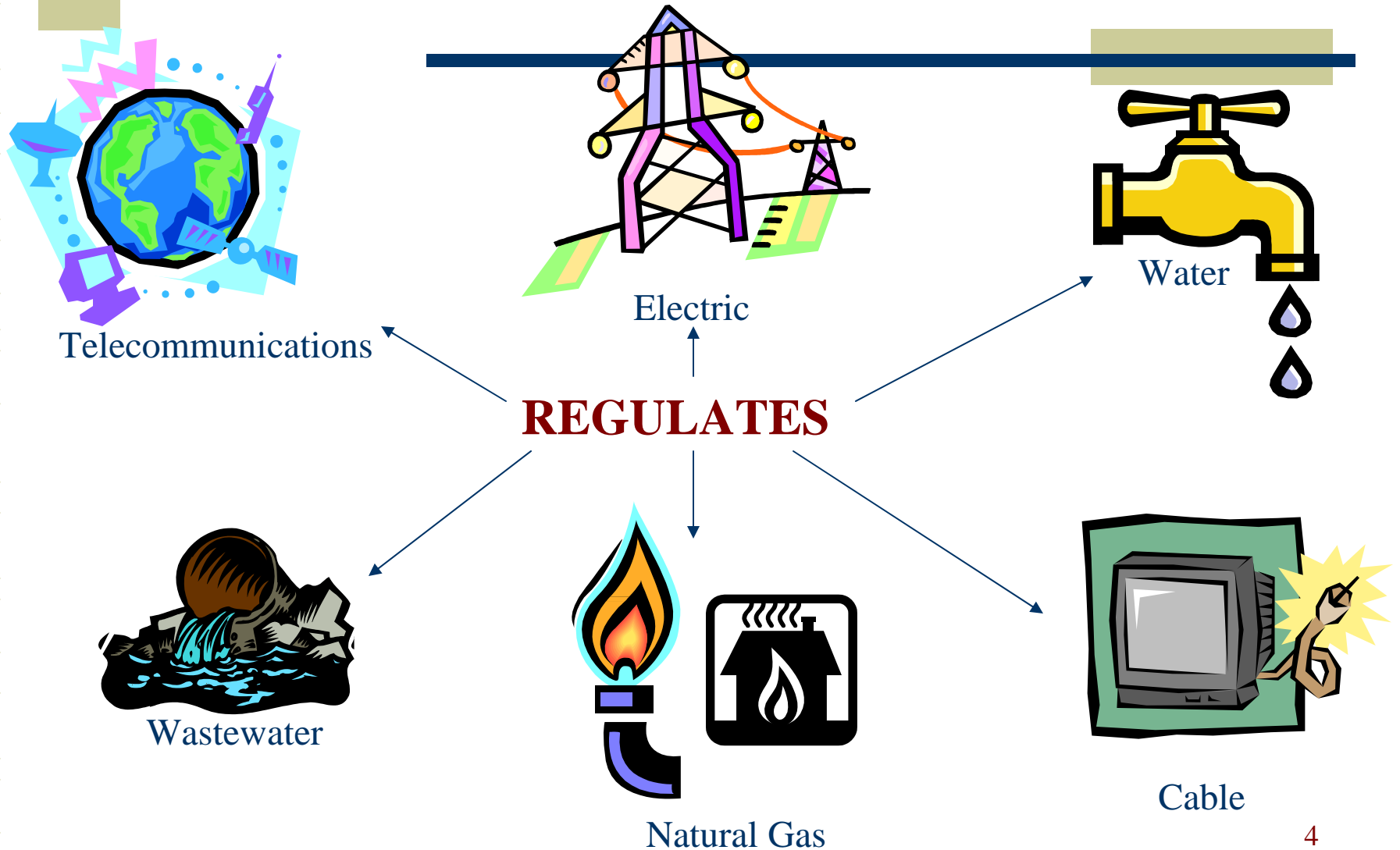
- ◆ Small Mid-Atlantic State
- ◆ Population of approximately 800,000
- ◆ Nicknamed “Small Wonder”

# 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





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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.