

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *Antigonish (Town) v. Nova Scotia (Utility and Review Board)*,  
2018 NSCA 8

**Date:** 20180130

**Docket:** CA 464607

**Registry:** Halifax

**Between:**

Town of Antigonish

Appellant

v.

Nova Scotia Utility and Review Board, Nova Scotia Power Inc.,  
Shannex Group and Attorney General of Nova Scotia

Respondents

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**Judge:** The Honourable Justice Hamilton

**Appeal Heard:** November 27, 2017, in Halifax, Nova Scotia

**Subject:** Administrative law; The meaning of “vicinity” in s. 1 of *An Act to Enable the Town of Antigonish to Install an Electric Light and Power Plant and to Borrow Money for Electric Light and Power Purposes*, S.N.S. 1924, c. 67, in the context of an application under s. 55(5) of the *Public Utilities Act*, R.S.N.S. 1989, c. 380.

**Summary:** The Town of Antigonish appealed the Order of the Nova Scotia Utility and Review Board that ordered Nova Scotia Power Incorporated (NSPI), rather than the Town, to provide power to a seniors’ care facility outside the Town’s boundary. The application before the Board was made pursuant to s. 55(5) of the *PUA* and involved the interpretation of “vicinity” as found in s. 1 of the 1924 *Act*, which empowers the Town to provide electricity to the “town and vicinity”. Rather than base its decision solely on the geographic proximity of the facility to the Town’s boundary as the Town urged, the Board

considered the existing infrastructure including the 25 kV “loop” line and poles, the convenience to the utilities of providing the power, the importance of minimizing the crossing of power lines, and to a lesser extent the cost to the facility and its specific requirements.

**Issue:** Was the Board’s decision ordering NSPI to supply electricity to the facility reasonable?

**Result:** Appeal dismissed without costs. The standard of review is reasonableness. The Board applied the correct principles of statutory interpretation and considered appropriate factors in reaching its decision on the s. 55(5) application before it. Its reasons demonstrate the hallmarks of justification, transparency and intelligibility and the result falls within a range of possible acceptable outcomes that are factually and legally defensible.

<p><i>This information sheet does not form part of the court’s judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 13 pages.</i></p>
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