



Carlton County, Minnesota  
**Commissioner's Office**

Chairman Dick Brenner

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**\*PRESS RELEASE\***

**Utility Tax Court Petition Update**

**As of 04/12/2019**

The State of Minnesota Department of Revenue (DOR) is in the midst of addressing a multitude of Minnesota Tax Court petitions filed by above-ground and below-ground utility providers statewide. These utilities include oil and natural gas pipelines and electric power transmission lines.

The formula the DOR uses to determine the Estimated Market Value (EMV) of utility infrastructure is very complex and, in some regards, different from the formulas used by our neighboring states. Minnesota statutes prescribe and control many aspects of how the DOR determines these values. Recently a number of utility providers have questioned the DOR's formula, with some taking legal action by challenging the DOR formula in Minnesota Tax Court.

The legal challenges often address both current valuations and past valuations dating back eight years or more. When these legal challenges resolve it is possible that both the current and the past taxable values could be increased or decreased.

If the tax court rules to reduce the value of the infrastructure of one or more utility provider, it is in essence finding that the infrastructure was overvalued, and that the utility provider paid or is paying too much in tax, shouldering a greater tax burden than is appropriate. If this finding is made, the tax court can determine the difference and order that amount be paid back to the utility provider.

Even though it is the Minnesota DOR, and not the county and other local taxing authorities, that is solely responsible for determining the EMV for taxing purposes, it is likely the State will not be held responsible for paying back any difference unless there is some legislative action that requires it. Most if not all of that responsibility will fall to the local taxing authorities, including counties, cities, townships, and schools. It is important to note that these infrastructure EMV's are given to the local taxing authorities as orders and those local authorities benefit from the tax revenue they provide. However, those local authorities also bear the financial liability that arises when the tax court determines that the DOR overvalued the infrastructure and overpayments occurred.

Some of the utility providers have reached settlements with the DOR or have finalized their cases through the tax court, including two as recently as March of 2019. These settlements are beginning to provide a clearer picture of the potential tax revenue impacts to Carlton County residents. The County Board and county staff will continue to monitor this situation in order to provide timely and accurate



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information to our citizens and other local elected officials. To that end, the following cases have been decided and the impacts are as follow:

**Cases Finalized:**

Merc 2008-2017, Refund \$332,225.10	Docket #'s: 8041-R, 8135-R, 8271-R, and 8482-R
WCT/CN 2016/2017, Refund \$12,792 of Revenue	Stipulated to out of court by the Commissioner
BNSF 2017/2018, Refund \$-0- of Revenue	Stipulated to out of court by the Commissioner
Great River Energy 2017/2018, Refund \$-0- of Revenue	Stipulated to out of court by the Commissioner

**\*New\*** Great Lakes Transmission 2019, Refund due \$120-130k Docket # 9257-R

**\*New\*** Enbridge Energy Southern Lights Line Pollution Control Exemption 2018, Refund due \$70,125 Docket # 9081-R

**Cases Pending (Court Decisions in appeal):**

Enbridge Energy, LLC 2012-2014 **Estimated** Refund \$2.5 million (\$1.1 million from the county, \$200k from the townships, \$400k from the schools, \$700k from the state) Docket # 8579-R, 8631-R, 8771-R

Northern Natural Gas, LTD. 2015 and 2016, Estimated Refund approx. \$600,000 (\$240K from the county, \$50K from the townships, \$100K from the schools, \$210K from the state) Docket # 8864-R & 8976-R

***With these cases, it should be noted that still to be addressed is the 2015-2019 for Enbridge and 2017-2019 for Northern Natural Gas, with additional refunds likely in the \$6.5 million to \$9 million range. Tax court cases for these years have been filed but are being stayed while the original cases are finalized, after which they will be addressed. It is possible that they will settle based upon the original cases.***

**Remaining Cases Pending (no court decisions)**

Lake Country Power: Docket #'s 8729-R, 8937-R, 62-CV-15-2752. This is a minor case and impacts will likely be minimal in comparison. Three of the six years being disputed were recently dismissed.

**Preliminary Assumptions**

There is an expected tax shift if these pending cases hold up and reductions are extended forward as they historically have. An estimated 25% reduction in value (final values could be higher or lower) would result in an approximate tax shift of 7-9% or more for the county portion of levy, and a tax shift of 25-45% on the township and school portion of the tax bill in most affected jurisdictions. Enbridge and

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Northern Natural Gas will impact Perch Lake, Sawyer, Twin Lakes and Silver Brook Township residents the most, as these are the areas where the utilities make up the largest percentage of total tax base.

**(Could be mitigated depending upon timeline and added value of Enbridge's Line 3, or by a State Legislative fix.)**

**Conclusion**

It is wise and prudent for the county and other local elected officials to continue to monitor this situation, and to begin to plan for how payback obligations might be met, including efforts to convince the State of Minnesota to contribute toward these obligations. Carlton County has been and will continue to relay this information to the local jurisdictions that are most likely to be impacted.

It is important to remember the future impacts and/or tax shifts have not been finalized for the cases still in litigation. Because the litigation is between the utility providers and the Minnesota DOR, much of the information is classified and currently unavailable, even to top county officials. It is also very important to understand the unresolved cases include two of the largest taxpayers in the Carlton County, and that the tax impacts are likely to be the most significant to date.

***Any questions about the above information should be referred to Kyle Holmes, Carlton County Assessor, or Paul Gassert, Carlton County Auditor/Treasurer.***