

# Testimony of Northern Natural Gas in Support of House File 424

February 11, 2019

Good afternoon, Madame Chair and members of the committee:

My name is Joann Wright. I am the property tax manager for Northern Natural Gas, headquartered in Omaha, Nebraska. Northern is an interstate natural gas pipeline with 14,700 miles of pipelines and transmission facilities in 12 states. Northern owns and operates more than 3,300 miles of pipeline and 13 compressor stations in Minnesota, and employs 110 persons in the state with compensation of approximately \$11.0 million. In 2018, Northern paid \$16.6 million in property taxes in 60 different counties in Minnesota. The expected tax liability in Minnesota for Northern in 2019 is approximately \$18.0 million. Northern wants to pay its fair share of property taxes to Minnesota – no more, no less.

Northern brought suit against the Minnesota Department of Revenue alleging that Northern's pipeline system has been over-valued by the DOR for property tax purposes for the tax years 2015 – 2018. Northern brought suit against the DOR because, by comparison, Northern's unit valuation in Minnesota is approximately 25% to 35% higher than Northern's unit valuation in Northern's other states of operation. Other states where Northern's pays property taxes use a similar methodology as the DOR to derive the unit value so the comparison of the unit values is a good indicator that the DOR's unit value is out of line.

In August 2018, Northern tried its case involving the 2015-16 tax years before the Minnesota Tax Court. Before I get into the results and impact of the court's decision, let me state that Northern does not routinely challenge state appraisals – not in Minnesota or in any other state in which we pay property taxes. In fact, during my tenure at my position at Northern for the last 16 years or so, this is the first challenge that Northern has mounted against its assessed valuation. That history reflects Northern's position that it willingly pays taxes that are fairly assessed. Simply put, the DOR methodology was so patently unfair that Northern was compelled to challenge the valuation, and the court's opinion affirmed Northern's belief in the unfairness of the DOR methodology.

On January 30, 2019, the Minnesota Tax Court issued an opinion concluding Northern's system had been substantially over-valued by the DOR, by 24% in 2015 and 33% in 2016. In its opinion, the Minnesota Tax Court criticized the DOR's valuation of Northern in two main areas: First, the DOR failed to recognize obsolescence from external factors that reduce a company's value. Second, the DOR used a capitalization rate that was considerably too low, resulting in a valuation that was far too high. In sum, the Minnesota Tax Court confirmed what centrally assessed taxpayers in Minnesota have known for years – the DOR's administration of centrally assessed valuation is fundamentally flawed and must be corrected to comply with Minnesota law.

Northern estimates the refund due to Northern as a result of the Tax Court's opinion to be approximately \$17.0m for the tax years 2015 – 2018. The Minnesota Tax Court ordered significant refunds be paid by Minnesota counties as a result of the over-valuation of Northern's system. The top ten counties impacted by the DOR's over-valuation of Northern are:

1. Dakota
2. Rice
3. Freeborn
4. Carlton
5. Steele
6. Hennepin

7. Washington
8. St. Louis
9. Chisago
10. Carver

The refunds due to Northern from the court's decision, and refunds ordered in similar cases concluding the DOR is administering centrally assessed valuation improperly, will likely bring hardship on the affected counties and their residents.

On behalf of Northern, I submit this testimony today to voice our support of House File 424 requiring the DOR to pay the refunds of centrally assessed taxpayers in Minnesota – the so-called “State Pays” legislation. The Minnesota Legislature has various ways to address the crisis in centrally assessed property tax valuation in Minnesota, and “State Pays” is certainly one of them, but it is not the only way.

The impact of the Minnesota Tax Court reversals of DOR centrally assessed valuations is that refunds due to centrally assessed taxpayers are uniquely significant. The centrally assessed taxpayer is often one of the county's largest taxpayers. Refunds ordered by the Court can significantly affect the annual budget of a county for years to come. House File 424, the “State Pays” bill, mitigates the impact to counties.

We should be clear: the centrally assessed taxpayer is partner in the state's economic growth. Our company, and companies similarly situated, have no objection to paying a fair assessment of our taxes. We, and our employees, are citizens of the state. Northern is more than willing to pay its *fair* share. The root of the problem being addressed by this bill is not the taxpayer, it is the flawed methodology for valuation employed by the DOR that has been, without reservation, struck down by the courts. The court decisions have left no doubt that the methodology used by the DOR is inherently unfair.

Northern anticipates that the DOR will assert the new administrative appeal process established last year “cures” all of the controversy with centrally assessed taxpayers in Minnesota. This assertion is inaccurate and this Committee should look upon any such assertion by the DOR with extreme skepticism.

Northern has utilized the DOR's new administrative appeal process to no avail. Northern received no relief from the DOR because the DOR insists it must continue to apply its flawed methodology that now has been repeatedly struck down by the Minnesota Tax Court. In fact, in the 2018 administrative appeal of Northern, an appeal conducted under the new appeal procedures, the DOR offered Northern only a 3% reduction in its unit value – an even higher unit value than the 2015 and 2016 values that the Minnesota Tax Court just concluded were too high by 24% and 33%.

The recent study conducted by the well-respected Minnesota Center for Fiscal Excellence confirms that the new DOR administrative appeals procedure has done nothing to stem the tide of the “explosion of appeals.”<sup>1</sup> Contrary to DOR's assertions, the reason that centrally assessed taxpayers continue to file suit against the DOR is that the new administrative appeals procedure does not fix the DOR's improper and overly aggressive administration of the property tax and is not expected to do so in the future. If the DOR wants to fix the problem with central assessment, the DOR must change its methodology to lower unit valuations in line with the recent decisions of the Minnesota Tax Court. The paltry offer in

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<sup>1</sup> Minnesota Center for Fiscal Excellence, *Assessing the State of Central Assessment in Minnesota*, November 2018, at page 19.

Northern's 2018 administrative appeal demonstrates that the DOR is "doubling down" on its flawed methodology, not working to seek resolution through its new administrative appeal procedures.

The new administrative appeal process cannot force the DOR to make reasonable offers, and, in fact, the DOR has not done so. Accordingly, any assertion by the DOR that the new administrative appeal process makes this question moot should be rejected.

What is attractive to Northern about the "State Pays" bill is that the responsibility for the refunds is placed squarely on the agency whose improper administration caused the refund – the DOR. Passage of the bill would relieve the counties from the financial hardship triggered by multi-million dollar refunds.

This proposal furthers the state's goal of equitable tax policy. We ask you to vote to advance this "State Pays" proposal. Thank you.