

ELECTRIC AND GAS CORPORATIONS (EXCERPT)
Act 238 of 1923

486.252 Corporate powers.

Sec. 2.

Every corporation organized as provided in section 1 of this act shall have the following powers:

First, To cause such examinations and surveys for all proposed improvements to be made as may be necessary to prepare for the work to be done.

Second, To acquire by lease, purchase, grant, and donation all such lands, easements, royalties, leaseholds, flowage rights, water power and other property, and any interest therein, as may be necessary to carry out its corporate purposes.

Third, To dam any stream or streams, and to excavate, construct, maintain, repair, and improve any existing stream or canal, or which it may excavate and construct, with water power appurtenant thereto.

Fourth, To flood, flow, and submerge its land and property by constructing the necessary dams in any canal, or in creeks, streams, or other water courses, natural or artificial.

Fifth, To condemn all lands and any and all interests therein, easements, rights of way, and other property other than lands lying within a known mineral zone of iron ore, copper, or coal, which may be necessary to generate, transmit, and transform electric energy for public use in, upon, or across private property.

Sixth, To condemn all lands, easements, rights of way, gas royalties, natural gas leaseholds and other property and any and all interests therein, other than lands lying within a known mineral zone of iron ore, copper, or coal, which may be necessary for pipe line rights of way or for an underground natural gas storage field or fields. However, the right to condemnation hereby granted shall not extend to or include the right to condemn lands, easements, rights of way, gas royalties, natural gas leaseholds, or other property or any interest therein, which are owned, leased, or used by any public utility or natural gas company carrying on the business of producing, gathering, transmitting, storing, selling, or supplying gas within the state. The term "natural gas company", as used in this act, is hereby defined as a corporation engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale. However, the condemnation of lands, natural gas leaseholds, or other property or any interest therein for an underground natural gas storage field in any formation shall be without prejudice to the right of the owner or owners of such lands, natural gas leaseholds, or other property or interest therein to drill through the formation or formations used or to be used for underground storage of natural gas provided adequate precautions are taken by such owner or owners to prevent the escape of gas stored in such formation or formations. Such condemnation proceedings in all cases shall be brought by petition addressed to the probate court for the county in which the land or any part thereof or interest therein to be condemned is located, and shall conform, as nearly as practicable, to the rules of pleading and practice governing probate court procedure. The petition shall set forth with reasonable certainty the description of each parcel of land and interest therein sought to be acquired, and the name or names of the persons owning or having interest in the land or parcels sought to be condemned insofar as disclosed by the records in the office of the register of deeds in the county in which the lands are situated, and shall specify generally the purpose and necessity of acquiring such lands and interests. Where a project involves more than 1 parcel of land located within a single county, all or any number of such parcels, irrespective of the number of persons owning or having interests therein, may be joined in 1 proceeding. The petition shall request that all persons interested in the respective premises described, or any part thereof, be required to appear and answer the petition, and show cause, if any they have, against the same, and shall pray for the appointment of 3 disinterested freeholders and residents of the county in which the land is situated as commissioners to perform the duties assigned them as hereinafter provided. Where the petitioner seeks to exercise the rights conferred by the provisions of paragraph fifth of this section, for the purpose of acquiring any property or interest therein for use as a water power project, the petitioner shall first have acquired and its petition shall contain the additional allegation that the petitioner has acquired, prior to the filing of such petition, by any means other than by condemnation, at least 90% of the property rights and interests including lands to be overflowed, required for such purpose, within the area proposed for such water power project. Where the petitioner seeks to exercise the rights conferred by the provisions of paragraph sixth of this section, for the purpose of acquiring any property or interest therein for use as a natural gas storage field, the petition shall contain the allegation that more than 75% of the recoverable gas reserves originally in that natural gas storage field were produced before the filing of the petition. Where less than 75% of the recoverable gas reserves originally in the natural gas storage field were produced before the filing of the petition, the petitioner shall first have acquired and its petition shall contain the allegation that the petitioner has acquired, prior to the filing of such petition, by any means other than by condemnation, at least 75%, computed in respect to surface area, of the property rights and interests in the underground field required for storage purposes, and its petition shall also contain an accurate description of the surface area underlaid by the formation or formations to be used for natural gas storage.

The petition shall also contain the allegation that a certificate has been obtained from the public service commission that the present or future public convenience and necessity require or will require the acquiring of any property or interest therein for use as a natural gas storage field. Upon application being filed with the public service commission for a certificate required by this section, the commission shall set the matter for hearing and shall give reasonable notice of the hearing thereon to all interested parties as in the commission's judgment may be necessary under rules prescribed by the commission. The commission may issue a temporary certificate in case of emergency to assure maintenance of adequate service without notice of hearing pending the determination of an application for a permanent certificate. The commission by rule may exempt from the requirements of this section temporary acts or operations for which the issuance of a certificate is not required in the public interest. Before any certificate is granted, the commission shall examine and inquire into the necessity of the natural gas storage field and determine that the natural gas storage field will serve the present or future public convenience and necessity, and that the field is safe for development and operation of gas storage. The granting of a permanent or temporary certificate by the commission pursuant to this section constitutes a prima facie case in any court of this state that the natural gas storage field so certified is required by the public convenience and necessity.

History: 1923, Act 238, Eff. Aug. 30, 1923 ;-- Am. 1929, Act 253, Eff. Aug. 28, 1929 ;-- CL 1929, 11872 ;-- Am. 1947, Act 356, Eff. Oct. 11, 1947 ;-- CL 1948, 486.252 ;-- Am. 1957, Act 67, Imd. Eff. May 21, 1957 ;-- Am. 1961, Act 69, Eff. Sept. 8, 1961 ;-- Am. 1973, Act 26, Imd. Eff. June 14, 1973