§ 23-1303. Authority to acquire property.

1. Any corporation empowered to produce, transport, distribute or store gas within this state for ultimate public use, which holds an underground storage permit from the department or which is otherwise lawfully operating an underground storage reservoir and its buffer zone, and which after reasonable effort is unable to obtain rights in real property and wells thereon necessary for activation, operation, or protection of the storage reservoir and its buffer zone shall, subject to the applicable provisions of the eminent domain procedure law, have the authority to acquire such rights as may be required adequately to examine, prepare, maintain, operate and protect, and for access to such underground storage reservoir and its buffer zone; provided that no right of acquisition under this section shall extend to any lands or interests therein which have been acquired, or, in the hands of the present holder, could have been acquired by acquisition; and, provided further, that any acquisition of cemetery lands or burial grounds shall be in the sound discretion of the court and with due provision for the relocation of human remains.

2. Underground gas storage operators authorized by this section to maintain acquisition proceedings before filing a suit for such acquisition shall have filed with the department a map showing the location, boundaries and estimated size of surface acreage of the underground storage reservoir and its buffer zone.

3. Any operator of an underground gas storage reservoir who at any time controls less than one hundred per cent of the storage rights within that reservoir and its buffer zone and is authorized by this section to maintain a proceeding shall acquire the storage rights remaining in the reservoir and its buffer zone acreage by negotiation or file and proceed with acquisition proceedings within a reasonable time but not to exceed a two year period after the first injection of gas, or after the effective date of this section, whichever is later or within any extension granted by the department.

4. Any operator who seeks to acquire underground gas storage and

buffer zone rights as authorized by this section shall name as parties defendant all the owners of all the parcels of property located within the boundaries of the reservoir and its buffer zone from whom storage rights have not previously been legally acquired by grant, lease, or other voluntary agreement; provided, however, that a failure to join the owners of any parcel in the reservoir and its buffer zone due to inadvertence shall not constitute a jurisdictional defect in any proceeding of acquisition.

5. The value of any property acquired pursuant to this section shall include the value of any commercially recoverable native oil and gas in place to the extent that the holder of the property interest being acquired has a right thereto. The same provision shall apply to the holder of salt rights.

6. The cost of, or possible necessity for, plugging any well or wells, when such plugging or replugging is or may be made necessary by reason of the storage use made possible or facilitated by acquisition shall not be considered in computing the value of property or any interest therein taken under this section.

7. The use of salt cavities for the storage of gas or other petroleum products or byproducts shall be at the discretion of the owner of the salt deposits at the location of the cavity. Salt cavities may be used for salt recovery and storage with the consent and agreement of the owners of the salt cavity and the stored material. Conversion of any salt cavity for the storage of gas or other petroleum products or byproducts shall be in accordance with section 23-1103 or 23-1301 of this article.