ADVISORY

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Public Service Obligation = Subsidy?
A Case Study From BUMN

What is the Public Service Obligation (**PSO**)? Whose obligation is it? What is the realization of the PSO? Some of us may not be familiar with the PSO and what actually means for a country. This article provides a general understanding of the PSO and particularly, how the PSO can affect us directly.

First things first, what is the PSO? The PSO is a concept commonly adopted by all nations and as you might guess, it is the obligation of the government to serve the public. A simple internet search for the PSO will easily reveal and teach us about this concept. What about Indonesia? Does Indonesia recognize this concept?

Indonesia's **1945 Constitution** recognizes the PSO under Article 34 (3) according to which, the government is responsible for providing people decent/appropriate health facilities and public services. The government has also issued **Law No. 25 of 2009 on Public Services** in view of, among other legislation, Article 34 (3) of the 1945 Constitution, the main objective of the Law is to ensure the provision of appropriate public services in accordance with the good governance principles and the applicable rules and regulations, also to provide people legal protection and certainty about the provision of public services.

The Law on Public Services applies to government institutions, State Owned Enterprises (**SOE** or **BUMN** – ***Badan Usaha Milik Negara***), and Region Owned Enterprises (BUMD – *Badan Usaha Milik Daerah*) which budget or capital is derived from the state treasury and allocated annually under the State Income and Costs Budget (***Anggaran Pendapatan dan Belanja Negara*** – **APBN**).

Coming back to the PSO, in addition to BUMN's obligations under the Law on Public Services, the **BUMN Law** (Law No. 19 of 2003) actually provides for a specific chapter on the PSO containing just one Article, Chapter V and Article 66, respectively. Under the article, the government may give a specific assignment to a BUMN for the public benefit while still adhering to the BUMN's purpose and objectives, and the specific assignment requires prior written approval from the BUMN's General Meeting of Shareholders (GMS).

Interestingly, according to the elucidation of Article 66, if the specific assignment is not financially viable, the government must cover all the costs that the BUMN incurs, including the expected margin.

As BUMN is a business entity, it must generate a profit to stay in business. On the other hand, as a BUMN also has a government element and therefore is subject to the PSO, a conflict can arise between generating a profit and providing the public service related to, among other things, pricing. This is where Article 66 provides for the government's intervention to ensure the sustainability of the BUMN's operation and its PSO by providing it a subsidy.

Given the above, we can see the PSO as a moral obligation of the government to its citizens. How does it differ from a subsidy?

A subsidy is generally understood to be a form of aid provided to ensure the provision of certain goods/services, the goal of which is usually to keep prices competitive or affordable. Meanwhile, the aim of a government subsidy is eventually to provide public services for the public benefit and make them affordable. Government subsidies are usually allocated to strategic sectors, such as transportation, energy, agriculture, etc. to keep prices down and affordable for all citizens. In other words, we can say that subsidies are one way of government's effort to keep fulfilling its PSO. This is true In Indonesia, where the government allocates subsidies to these sectors as well as others to keep the price affordable for its citizens.

Do subsidies eventually benefit all citizens? Yes, in one way or another. But will the BUMN or other recipient use the subsidy effectively to provide the public services needed? It should, as the government has developed an effective scheme for the allocation and supervision of subsidies. In this article, we try to understand this scheme and how it applies to one BUMN, the State Electric Power Company (**PLN** – ***Perusahaan Listrik Negara***).

<u>Formulating the Subsidy</u>

All subsidies should be included in the annual APBN. The APBN is discussed and approved by the government and the House of Representatives to then be enacted as a Law (*Undang-Undang*) before the start of every calendar year. In case of PLN, to ensure the provision of electric power, the procedure for the allocation, calculation, repayment and accountability for the subsidy since the 2019 APBN has been regulated under Minister of Finance Regulation (**MOFR**) No. 174/PMK.02/2019 (**MOFR 174**).

Before the electric power subsidy is budgeted and then allocated under the APBN, the Minister of Energy and Mineral Resources (**MEMR**) submits a proposal stating the total value of the electric power subsidy to the Minister of Finance (**MOF**) using the formula (including certain parameters) provided in MOFR 174. For the proposal, the Minister of BUMN may provide inputs regarding the margin assumed (as one of the elements of the formula) for calculating the subsidy to arrive at the electric power subsidy to be approved under the APBN.

The parameters referred to in the above cover, among other things, sales volume and growth, electric power tariffs, margin, number of customers, tariff grouping, specific fuel consumption (SFC), etc. If necessary, the MEMR may submit additional information and data to the MOF. PLN must manage these elements and report on their realization (quarterly, within 45 days of the end of each quarter) to the MEMR c.q. the Director General of Electric Power, copied to the Proxy Executor (KPA). Based on the report, PLN may propose adjustments to the figures and the electric power subsidy to be approved by the MEMR and then by the MOF.

Subsidy Payment

Under MOFR 174, the subsidy is paid to PLN upon receipt of a written request from the Board of Directors (BOD) of PLN to the Director of Non-Tax State Income, Mineral Resources and Separated State Assets as the Proxy Executor (**KPA**) appointed by the Minister of Finance (as the User of the State Budget).

The monthly request for payment of the electric power subsidy PLN submits must be accompanied by a number of supporting documents and upon their receipt, the request is further verified by the KPA and the result is recorded in minutes of verification signed by the Commitment Making Official and the BOD of PLN. The monthly electric power subsidy paid to PLN is 95% of the total amount verified by the KPA ("**Monthly Subsidy Payment**").

PLN may submit a proposal to adjust the monthly subsidy payment to the KPA to be verified at the end of every quarter. This proposal will be submitted along with the calculation of:
(i) the actual realization of the subsidy,
(ii) the actual value of the electric power sold to the public for each Rate Grouping,
(iii) the actual production costs PLN has incurred (and the actual grid shortfall), and
(iv) the realization of the Specific Fuel Consumption if the correction is submitted up to the end of the second quarter.

The adjusted electric power subsidy is then paid to PLN or set off against the next payment (**Adjusted Subsidy Payment**). The Adjusted Subsidy Payment constitutes 100% of the Monthly Subsidy Payment. In December of the current budget year, any unpaid electric power subsidy is paid under the following budget year's DIPA (following next year's APBN).

Reporting on the use of the electric power subsidies

PLN must submit a report on its use of the electric power subsidies to the KPA at the latest on the 15th of February of the next budget year. The report must cover at least the electric power sales target and realization, production costs, energy mix, fuel volume, specific fuel consumption and grid shortfall.

Final Subsidy Payment & Additional Costs incurred by PLN

The Monthly Subsidy Payment and the Adjusted Payment are temporary subsidies. The total amount of the subsidy to be paid in 1 (one) budget year is finalized after an audited report on the electric power subsidies has been delivered by the auditor (the institution authorized to conduct the audit under the prevailing laws and regulations) to the MOF.

If according to the audited report, the subsidies have not been paid in full, the shortfall is paid after the unpaid portion of the subsidies has been included in the APBN (of the current year or the next). On the other hand, any overpayment of the subsidies may be set off against the current/previous year's subsidy or returned to the State Treasury by PLN.

If for a certain time, PLN has been given a certain special assignment(s) to maintain the sustainability of the electric power supply in a certain area which is supervised by the relevant government authority and the assignment has caused PLN to incur additional costs, these additional costs may be included in the calculation of the subsidies for the respective month after adjusting the production costs PLN accounts for with approval from the MOF.

Conclusion

The PSO and subsidies are highly interrelated but they are not the same *per se*. The PSO is more of a moral obligation of the government (including government elements, such as BUMNs) to provide good and affordable public services. And to realize the PSO, subsidies are one of amongst the government's efforts to keep fulfilling its PSO.

The case study of the PLN subsidy illustrates the government's effort to comply with its PSO by providing an electric power subsidy, and at the same time improve PLN's efficiency (by way of verifying the reports on the realization of subsidy and parameter management). It is interesting to see how BUMNs as part of governmental elements respond to this 'moral' challenge of the PSO and at the same time being accountable on the subsidies provided by the government (among others, by operating efficiently).

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