



Makarim & Taira S.

Summitas I, 16th & 17th Fls.
Jl. Jend. Sudirman Kav. 61-62
Jakarta 12190
Indonesia

P: (62-21) 5080 8300, 252 1272
F: (62-21) 252 2750, 252 2751
www.makarim.com

M&T Advisory is an email publication prepared by the Indonesian law firm, Makarim & Taira S. It is only intended to inform generally on the topics covered and should not be treated as legal advice or relied upon when making investment or business decisions. Should you have any questions on any matter contained in M&T Advisory, or other comments generally, please contact advisories@makarim.com

NEW COAL PRICE CAP FOR POWER GENERATION

Recently, the Minister of Energy and Mineral Resources (“MEMR”) issued 2 (two) decrees on the price of coal, MEMR Decree No. 1395 K/30/MEM/2018 dated 9 March 2018 on The Coal Price for Power Generation for the Public Interest (“MEMR 1395/2018”) later amended by MEMR Decree No. 1410 K/30/MEM/2018 dated 12 March 2018 (“MEMR 1410/2018”) as an implementation of Government Regulation No. 8 of 2018 (“GR 8/2018”) and MEMR Regulation No. 19 of 2018 (“MEMR 19/2018”) which provides a legal basis for setting the maximum price for coal used for the generation of electric power for the public interest. In short, MEMR 1395/2018 and MEMR 1410/2018 are intended to address the risk of coal price fluctuations due to the recent increase in the market price for coal for the electric power industry for the public interest by determining the sale price of coal for generating electric power for the public interest as part of the domestic market obligation (“DMO”).

Neither MEMR 1395/2018 nor MEMR 1410/2018 provides a definition of electric power generation for the “public interest”. However, as under Law No. 30 of 2009, the generation of power for the public interest can be undertaken by either the state-owned company (PLN) or private companies using the Independent Power Producer (“IPP”) scheme, MEMR 1395/2018 and MEMR 1410/2018 (including in particular the sale price of coal) should apply to coal fired power plants whether they are operated by PLN or through the IPP scheme. The MEMR official with whom we discussed it, confirmed the above view.

MEMR 1395/2018 and MEMR 1410/2018 set the sale price of coal for the generation of electric power for the public interest at USD70 per metric ton (Free On Board (FOB) basis) with standard specifications of 6,322 kcal/kg GAR, Total Moisture 8%, Total Sulphur 0.8% and Ash 15%.

If the coal specifications differ from the above, MEMR 1395/2018 and MEMR 1410/2018 provide certain formulae for adjusting the mandatory coal price.

In so far as it is related to DMO, MEMR 1395/2018 and MEMR 1310/2018 provides as an incentive, up to a 10% increase in production capacity for coal companies that meet (i) the minimum DMO requirement (under MEMR Decree No. 23 K/30/MEM/2018 dated 5 January 2018 on the Determination of Minimum Domestic Market Obligation of Coal Sales for 2018 ("MEMR 23/2018"), the DMO for coal mining companies is 25% of total coal production in 2018); and (ii) the coal price determination and formula under MEMR 1395/2018 and MEMR 1410/2018.

The coal price determination and the related formula under MEMR 1395/2018 has applied since the date of the issuance of the MEMR Decree (ie 9 March 2018) and will remain in effect until 31 December 2019.

Although the issuance of MEMR 1395/2018 and MEMR 1410/2018 is intended to address the risk of coal price fluctuations and to protect PLN from coal price fluctuations, how this will be implemented in practice remains unclear.

* * * * *

M&T Advisory is an email publication prepared by the Indonesian law firm, Makarim & Taira S. It is only intended to inform generally on the topics covered and should not be treated as a legal advice or relied upon when making investment or business decisions. Should you have any questions on any matter contained in M&T Advisory, or other comments generally, please contact your usual M&T contact or advisories@makarim.com.

Contacts:

Vincent Ariesta Lie vincent.lie@makarim.com
Heru Mardijarto heru.mardijarto@makarim.com
Dirgantara Adi Nugroho dirgantara.nugroho@makarim.com
Stephen Sim stephen.sim@makarim.com