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NATURAL GAS BUSINESS: ONE PRICE FOR ALL OF INDONESIA?

After focusing on the one price program for oil fuel, the Government of Republic of Indonesia ("GOI") is now turning its attention back to the natural gas industries. While the Government has tried hard to defend Article 33 paragraph (3) of the Constitution by which the earth, water, and all natural resources should be controlled by the State and must have a benefit impact on mankind, we still have to face the fact gas market prices are highly variable in Indonesia.

On 25 January 2018, the GOI through the Minister of Energy and Mineral Resources ("MEMR") has issued a new regulation with regard to the downstream natural gas business. The enactment of this MEMR Regulation No. 4 of 2018 concerning Exploitation of Natural Gas in Downstream Oil and Gas Business Activities ("Regulation 4/2018") revokes and replaces the previous relevant regulation, i.e. MEMR Regulation No. 19 of 2009 concerning Natural Gas Business Activities through Pipelines ("Regulation 19/2009").

From the Handbook of Energy & Economic Statistics of Indonesia 2017 issued and published by data of MEMR *), the total gas reserve as per January 2015 was 151.33 TSCF, consisting of 97.99 TSCF of proven reserves and 53.34 TSCF of potential reserves. Compared to 2014, natural gas reserves had increased by 1.36% or 2.03 TSCF. Apart from the domestic supply demand, gas is also used as an export commodity in the form of Liquid Petroleum Gas (LPG) and piped gas. Based on these facts and as we know that Indonesia is a natural gas producer with reserves and market spread all over Indonesia and Asia, it is going to be our loss if we cannot maximize our potential in handling the downstream natural gas business.

Lack of Infrastructure

We understand that natural gas business development in Indonesia is hampered by the slow infrastructure development, limited access to distribution and transmission pipelines, and multiple layers of traders resulting in high gas prices to end users.

Indonesia is keen to expand its pipeline network to raise gas penetration rates and cut oil dependency. Despite being known to have huge gas resources, a lack of pipeline connectivity has forced the country to turn to building LNG import facilities to meet the gas needs of individual areas.

Regulation 19/2009 which allowed dedicated pipelines for traders encourage current players in the gas industry to set their own prices from toll fees and other fees. Although Downstream Oil and Gas Supervisory Agency ("**BPH Migas**") has previously provided several regulations that support the open access idea in the BPH Migas Regulation No. 16/P/BPH Migas/VII/2008 concerning Toll Fees (Tariffs) of Gas Pipelines, BPH Migas Regulation No. 12/BPH Migas/II/2008 on Special Right Tenders for Gas Pipelines, and the MEMR Regulation No. 10 of 2009 concerning Piped Natural Gas Business Activities, the transmission itself, the tariff and the trader still cannot be controlled and are not optimally distributed.

Regulation 4/2018: A Solution or A Threat?

Aiming for natural gas downstream efficiency, MEMR, BPH Migas, the Special Taskforce for Upstream Oil and Gas Business Activities (SKK Migas), and stakeholders have been having the prolonged discussions to amend Regulation 19/2009.

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The key points of the Regulation 4/2018 that will most likely affected the natural gas industry are as follows:

a. Tender of Special Right for Transmission Segment (*Ruas Transmisi*) and/or Distribution Network Area (*Wilayah Jaringan Distribusi*)

   By this Regulation 4/2018, the downstream oil and gas actors will have the same opportunity since the Transmission Segments and/or Distribution Network Areas whereby the Special Right attached thereto will be tendered by BPH Migas. The winning bidders will then be entitled for an exclusive Specific Commercial Area and natural gas allocation for 30 (thirty) years.

   This regulation also provides that each holder of a Special Right must develop infrastructure in that area and must provide infrastructure for small customers, and/or land transportation based on the tender documents. This provision may stimulate the development of pipelines infrastructure and is expected to affect the price.

b. Exclusive Special Rights over the Distribution Network Area

   The holder of Special Rights over a Distribution Network Area will obtain a Specific Commercial Area with the same area as the Distribution Network Area and the natural gas allocation based on the tender documents or natural gas supply.

   This Specific Commercial Area will be given exclusively for 30 (thirty) years. After that period of 30 (thirty) years, the area will be opened to other Oil and Gas Commercial Business License holders and there should not be any other supplier in the area.

c. One Area for One Transportation Business License Holder

   In the Article 10 paragraph (3) of the Regulation 4/2018, gas may only be transported over specific Transmission Segments by 1 (one) Transportation Business License holder.

   Please note that before the issuance of Regulation 4/2018, several pipelines could be used by several stakeholders, and thus this clause has the potential to lower investment in the gas industry.

d. Discontinuance of Issuance of Commercial Business Licenses for Dedicated Pipelines

   By the issuance of this Regulation 4/2018, Commercial Business Licenses for Dedicated Pipelines will no longer be issued. In accordance with Article 23 of the Regulation 4/2018, a gas consumer is allowed to construct and operate its own pipeline for its own utilization with an approval from the Directorate General of Oil and Gas. However, the approval will be issued with consideration of the source of supply availability, infrastructure availability, and whether there are any potential consumers who intend to utilize the natural gas for the next 5 (five) years as from the approval date.

e. Accounting Unbundling

   All of the companies that hold both Transportation Business Licenses and Commercial Business Licenses before the enactment of Regulation 4/2018 must prepare unbundling accounting books for each of their businesses at the latest on 1 January 2019.

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It can be seen that Regulation 4/2018 brings a new concept and color to the downstream gas industry in Indonesia, except that the determination of the gas prices and tarrifs will still be determined by BPH Migas or MEMR (as relevant). Hopefully this new concept can achieve the goals of increasing gas infrastructure, raising gas penetration rates, and achieving the one price program for natural gas.

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*) Handbook of Energy & Economic Statistics of Indonesia 2017, MEMR, published in https://www.esdm.go.id/assets/media/content/content-handbook-of-energy-economic-statistics-of-indonesia-2017-.pdf., hlm. 83.

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