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New Regulation on Purchase of Electric Power from Biomass and Biogas Power Plants

By Luke Devine, Kirana Sastrawijaya, Martin David, and Kim Hock Ang*

The authors of this article discuss a new regulation on the purchase of electric power from biomass and biogas power plants in Indonesia.

The Ministry of Energy and Mineral Resources ("MEMR") Regulation No. 21 of 2016 on the Purchase of Electric Power from Biomass and Biogas Power Plants by PT Perusahaan Listrik Negara ("PLN") was recently enacted ("Regulation 21"). Regulation 21 replaces MEMR Regulation No. 27 of 2014 on the Purchase of Electric Power from Biomass and Biogas Power Plants by PLN ("Regulation 27"). The structure of Regulation 21 is modeled in a very similar manner to the recent regulations issued in respect of mini-hydro projects, and shares a number of the same features:

- a feed-in tariff to apply to biomass and biogas power plant projects, priced in US$, without escalation and not subject to any negotiation;
- the feed-in tariff levels being differentiated depending on the location of where the projects are being developed (on the general principle that projects in less-developed areas enjoy a higher feed-in tariff than projects developed in developed areas such as West Java); and
- a mandatory timeline for the award and completion of biomass and biogas power plant projects.

POWER PURCHASE PROCEDURES

Under Regulation 21, business entities intending to develop and operate biomass and biogas power plants must first secure a stipulation as the developer of a biomass and biogas power plants. The application for the stipulation is submitted to the MEMR through the Directorate General of New and Renewable Energy and Energy Conservation ("*Energi Baru, Terbarukan, dan Konservasi Energi*-EBTKE").

The following documents must be submitted with the application:

- A profile of the applying business entity.

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- Feasibility study documents that have been verified by PLN which consist of, among others:
  - an estimate of the total investment required for the construction of the biomass or biogas power plant;
  - the construction schedule of the power plant until the Commercial Operation Date ("COD");
  - the result of a technical study on interconnection to PLN's electricity grid;
  - a statement declaring that the development of the power plant will prioritize local goods/services as well as the supporting documents required under the prevailing laws and regulations; and
  - funding capability.

EBTKE will form a team that consists of representatives from EBTKE, the Directorate General of Electricity ("DGE"), the Secretariat General of Energy and Mineral Resources and other related agencies to examine the application ("Examination Team"). No later than seven business days after the business entity submits a complete application, the Examination Team will convey its examination result based on administrative, technical and financial aspects to the MEMR through EBTKE. Based on the examination result, the MEMR through EBTKE will issue a decision to issue or to reject the application. EBTKE will issue its decision no later than seven business days after it receives the examination result from the examination team.

MANDATORY MILESTONES

Regulation 21 sets out the following mandatory milestones for the development and completion of biomass and biogas power plant projects:

- No later than 30 business days after EBTKE issues the stipulation, PLN and the stipulated biomass or biogas power plant developer must sign a Power Purchase Agreement ("PPA"). A copy of the executed PPA will then be delivered to the MEMR through EBTKE. The term of the PPA is 20 years from the COD and it is extendable.
- If PLN and the developer do not sign a PPA within the required period, PLN and the developer will each submit a report explaining why the PPA has not been executed. Then the MEMR, based on the submitted reports, through EBTKE will facilitate the execution of a PPA.
- PLN must develop a model PPA for biomass and biogas power plants and deliver the model to EBTKE no later than 30 business days after

the enactment of Regulation 21.

- After the execution of the PPA, the developers are required to submit a report every six months on the progress of the construction of the power plant to the MEMR through EBTKE. The report must also be copied to the DGE and the board of directors of PLN.
- Financial close must be achieved no later than 12 months after the execution of the PPA. The evidence of financial close must be submitted to the MEMR through EBTKE.
- Failure to achieve financial close within the required period will lead to the revocation of the stipulation as a biomass and biogas power plant developer.
- After executing the PPA and achieving financial close, the developers must obtain an electricity generation license (known commonly by its Indonesian acronym, an “IUPTL”). A copy of the IUPTL must be submitted to the EBTKE and the board of directors of PLN no later than three business days after the developers obtain the IUPTL.
- While Regulation 27 gave developers 40 months after the execution of the PPA to achieve COD, Regulation 21 only gives developers 36 months to achieve COD.
- Failure to achieve COD within 36 months after the execution of the PPA will lead to a deduction of feed-in-tariff as follows:
    - For delays of up to three months, the tariff will be discounted by three percent.
    - For delays of more than three months and up to six months, the tariff will be discounted by up to five percent.
    - For delays of more than six months and up to 12 months, the tariff will be discounted by up to eight percent.
- If the developer cannot achieve COD within 48 months after the execution of the PPA, the stipulation as a biomass or biogas power plant developer will be revoked.
- A developer whose stipulation is revoked due to the failure to achieve financial close or COD will be banned from applying for the same stipulation for two consecutive years after the revocation date.[1]

FEED-IN-TARIFFS

Regulation 21 sets out the following tariffs for the purchase of electric power

[1] Please refer to Schedule 1 for the timeline of mandatory milestones.

from biomass and biogas power plants:

Tariffs for Biomass Power Plants

No.	Location	Purchase Price (cent USD/ kWh)				F Factor
		Capacity up to 20 MW		20 MW < Capacity ≤ 50 MW	Capacity > 50 MW	
		Low Voltage	Medium or High Voltage	High Voltage	High Voltage	
1.	Java	16.00 x F	13.50 x F	11.48 x F	10.80 x F	1.00
2.	Sumatra	16.00 x F	13.50 x F	11.48 x F	10.80 x F	1.15
3.	Sulawesi	16.00 x F	13.50 x F	11.48 x F	10.80 x F	1.25
4.	Kalimantan	16.00 x F	13.50 x F	11.48 x F	10.80 x F	1.30
5.	Bali, Bangka Belitung , Lombok	16.00 x F	13.50 x F	11.48 x F	10.80 x F	1.50
6.	Riau, Nusa Tenggara, and other islands	16.00 x F	13.50 x F	11.48 x F	10.80 x F	1.60
7.	Maluku and Papua	16.00 x F	13.50 x F	11.48 x F	10.80 x F	1.70

Tariffs for Biogas Power Plants

No.	Location	Purchase Price (cent USD/ kWh)				F Factor
		Capacity up to 20 MW		20 MW < Capacity ≤ 50 MW	Capacity > 50 MW	
		Low Voltage	Medium or High Voltage	High Voltage	High Voltage	
1.	Java	13.14 x F	10.64 x F	9.05 x F	8.51 x F	1.00
2.	Sumatra	13.14 x F	10.64 x F	9.05 x F	8.51 x F	1.15
3.	Sulawesi	13.14 x F	10.64 x F	9.05 x F	8.51 x F	1.25
4.	Kalimantan	13.14 x F	10.64 x F	9.05 x F	8.51 x F	1.30
5.	Bali, Bangka Belitung, Lombok	13.14 x F	10.64 x F	9.05 x F	8.51 x F	1.50
6.	Riau, Nusa Tenggara, and other islands	13.14 x F	10.64 x F	9.05 x F	8.51 x F	1.60
7.	Maluku and Papua	13.14 x F	10.64 x F	9.05 x F	8.51 x F	11.70

The tariff of biomass and biogas power plant projects is determined by considering: (i) the capacity of the biomass and biogas power plants; (ii) the voltage of PLN's transmission network; and (iii) the location of the biomass and biogas (F factor). Further, the above tariffs:

- include costs of procurement and interconnection from the biomass and biogas power plants to PLN's network;
- require no further negotiation with PLN;
- are set out without escalation;
- require no tariff approval from MEMR; and
- apply when the biomass and biogas power plants have achieved COD according to the milestone schedules agreed in the PPA.

All tariffs for biomass and biogas power projects are set out in USD (USD cent/kWh) but payments will be made in Indonesian Rupiah based on the Jakarta Interbank Spot Dollar Rate ("JISDOR") on the date agreed in the PPA. This provision is in line with Bank Indonesia regulations on mandatory use of Rupiah. Previously, under Regulation 27, the tariffs for biomass and biogas power projects are set out in Indonesian Rupiah.

PURCHASE OF EXCESS POWER

PLN may purchase excess power from biomass or biogas power plants owned by the holder of an Operation Permit. An Operation Permit is a license to generate power for own use. Regulation 21 specifies the tariff for the purchase of excess power and therefore tariff approval from the MEMR for the purchase of excess power is not required.[2]

The purchase of excess power by PLN will be set out under a PPA. The period of the PPA is based on the agreement of the Operation Permit holder and PLN. The holder of an Operation Permit selling its excess power to PLN in accordance with Regulation 21 is not required to obtain stipulation as a biomass and biogas power plant developer.

Transitional Provisions—Existing Biomass and Biogas Projects

The transitional provisions of Regulation 21 appear to suggest the following adjustments to the new feed-in-tariffs:

- Existing biomass and biogas projects that have obtained a stipulation

[2] Please refer to Schedule 2 for the excess power tariffs for both biomass and biogas power plants.

from EBTKE and an IUPTL but have not executed a PPA and have not operated before the enactment of Regulation 21 are entitled to adjust their tariff to the new tariffs set out in Attachment I and Attachment II of Regulation 21.

- Existing biomass and biogas projects that have obtained a stipulation from EBTKE, obtained an IUPTL, executed a PPA, and have operated before the enactment of Regulation 21 are entitled to adjust their tariff to 85 percent of the tariff stated in Attachment I and Attachment II of Regulation 21.
- Existing biomass and biogas projects that have obtained a stipulation from EBTKE, obtained an IUPTL and executed a PPA but have not operated before the enactment of Regulation 21 are entitled to adjust their tariff to the new tariffs set out in Attachment I and Attachment II of Regulation 21.

To adjust the tariff, business entities intending to develop and operate biomass and biogas power plants must submit an application on the tariff adjustment to the MEMR through the Directorate General of EBTKE. The tariff adjustment will be further stipulated in the PPA without negotiation, escalation, and approval from the MEMR, and will not apply retroactively.

CONCLUSION

Regulation 21 is a positive signal to the market as the government has taken a step to attract and address the concerns of investors in biomass and biogas power projects. In return, developers are being asked to speed up the development. This recent regulatory change is consistent with the broader regulatory reforms being made across the power sector—all aimed at getting new power generation projects up and in operation as soon as possible, to enable the government to meet its aggressive electrification and infrastructure development goals.

However, the success of this biomass/biogas program, and more broadly the renewable sector aims of the government, are going to be largely determined by the two other key stakeholders in the renewable energy sector: namely PT PLN (Persero) and the Indonesian Parliament.

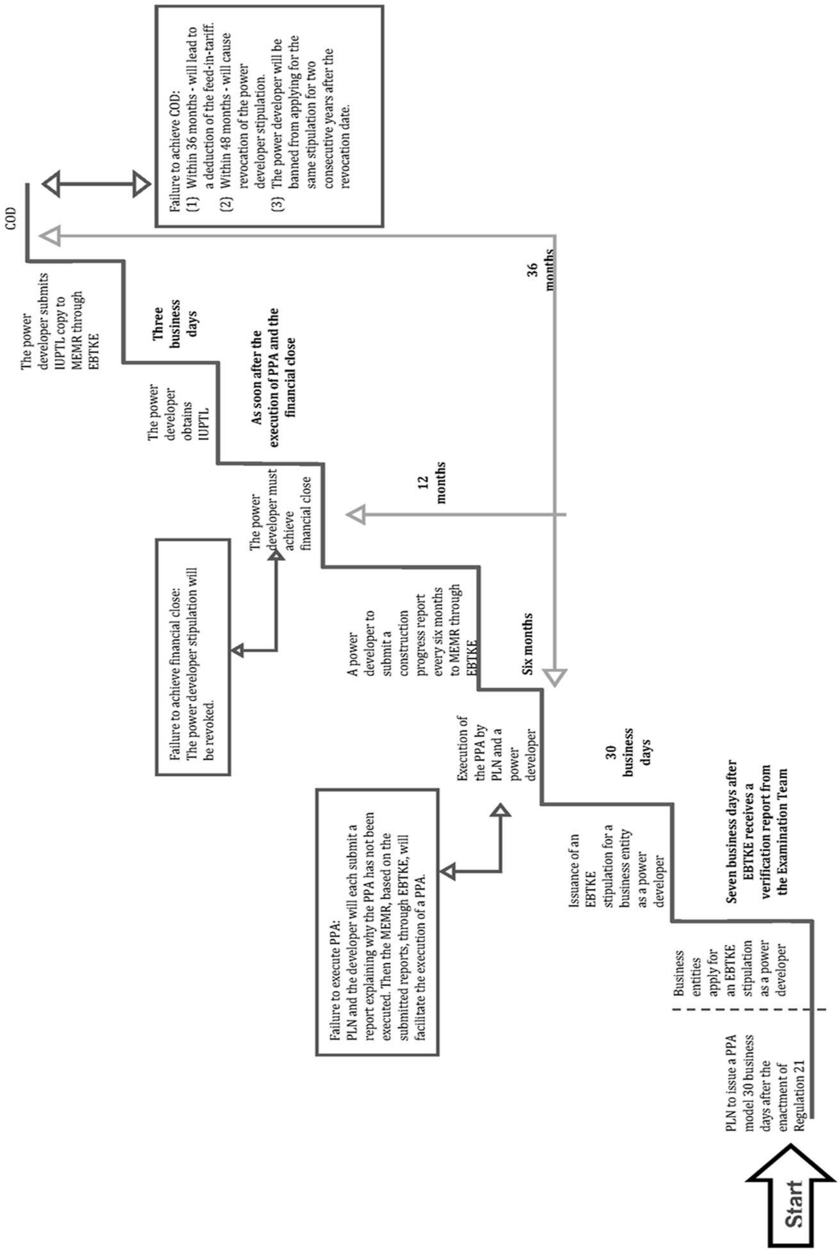
PLN has raised issues over the affordability of other renewable energy feed-in tariff regimes recently introduced by the government (most notably the mini-hydro program), and has not been willing to adopt the tariff regimes set out by government under those regimes.

As part of the recent state budget deliberations, the Indonesian Parliament recently rejected the proposed IDR 1.1 trillion subsidy for the development of renewable energy.

If PLN can develop a solid and bankable PPA, then on paper at least, the future for biomass and biogas projects looks bright. However, until there is key stakeholder alignment with regards to Indonesia's renewable energy program (and the cost to the country of implementing that program), there are concerns that, as with other recent renewable reforms introduced such as mini-hydro and the solar program, the development of biomass and biogas projects will remain in a state of limbo.

SCHEDULE 1

Timeline for Mandatory Milestones



SCHEDULE 2

Tariffs of Excess Power Purchase

A. Tariffs for Excess Power Purchase of Biomass Power Plants

No.	Location	Purchase Price (cent USD/ kWh)			
		Capacity up to 20 MW		20 MW < Capacity ≤ 50 MW	Capacity > 50 MW
		Low Voltage	Medium or High Voltage	High Voltage	High Voltage
1.	Java	16.00	13.50	11.48	10.80
2.	Sumatra	16.00	13.50	11.48	10.80
3.	Sulawesi	16.00	13.50	11.48	10.80
4.	Kalimantan	16.00	13.50	11.48	10.80
5.	Bali, Bangka Belitung, Lombok	16.00	13.50	11.48	10.80
6.	Riau, Nusa Tenggara, and other islands	16.00	13.50	11.48	10.80
7.	Maluku and Papua	16.00	13.50	11.48	10.80

B. Tariffs for Excess Power Purchase of Biogas Power Plants

No.	Location	Purchase Price (cent USD/ kWh)			
		Capacity up to 20 MW		20 MW < Capacity ≤ 50 MW	Capacity > 50 MW
		Low Voltage	Medium or High Voltage	High Voltage	High Voltage
1.	Java	13.14	10.64	9.05	8.51
2.	Sumatra	13.14	10.64	9.05	8.51
3.	Sulawesi	13.14	10.64	9.05	8.51
4.	Kalimantan	13.14	10.64	9.05	8.51
5.	Bali, Bangka Belitung, Lombok	13.14	10.64	9.05	8.51
6.	Riau, Nusa Tenggara, and other islands	13.14	10.64	9.05	8.51
7.	Maluku and Papua	13.14	10.64	9.05	8.51