

#BERSIHKAN INDONESIA



Foul Play Suspected in Direct Assignment for Riau-1 Power Plant Procurement

Note on the witness examination of witness Sofyan Basir, President Director of state electricity company PLN, in the trial for alleged corruption in the construction of the Riau-1 coal power plant (PLTU MT Riau-1) with defendant Johannes Budisutrisno Kotjo

Jakarta, 1 November 2018 – PLTU Riau-1 was built by outsmarting provisions regarding directly assigning contracts. This is based on the testimony of Sofyan Basir, President Director of PLN, in the fourth trial regarding alleged corruption of mine-mouth PLTU Riau-1 with defendant Johannes Budisutrisno Kotjo at the State Corruption Court in Central Jakarta, Thursday, October 25, 2018.

In the fourth trial, the Prosecutor presented two witnesses namely Sofyan Basir (SB) and Supangkat Iwan Santosa, Director of PLN's Strategic Procurement. At this hearing, the testimony of witnesses was separated, as the position in company hierarchy and functions of both witnesses was different.

Responding to the prosecutor's questions, Sofyan Basir said that the procurement mechanism of PLTU Riau-1 was initially similar to other independent power producers (IPP), which is through a bidding process. However, through the Presidential Regulation 4/2016 on the Acceleration of Electricity Infrastructure Development (Perpres 4/2016), Sofyan Basir argued that PLN was able to directly appoint or assign its subsidiary company to build the mine-mouth power plant as long as PLN owns at least a 51% share of the project. Sofyan Basir also mentioned that mine-mouth power plants were supposed to have their majority shares in the hands of PLN and its subsidiaries. Again, Sofyan Basir testified that the construction of mine-mouth power plants must follow the bidding mechanism.

In his testimony, Sofyan Basir as PLN's President Director required investors interested in PLTU MT Riau-1 to find the additional funds that would fulfill its 51% share on the entire project. PT PJB Investasi (PJBI), as PT PLN's subsidiary in the consortium PLTU MT Riau-1, merely had the ability to fund 10% of the total project. Therefore, an additional 41% investment was needed. The additional investment was later agreed to by Johannes Budisutrisno Kotjo, who had previously been part of China Huadian Engineering Co. (Huadian), in which both of parties jointly owned 49% share of the entire project.

Sofyan Basir's testimony raises suspicion that he intentionally misinterpreted Perpres 4/2016, for there was never any such arrangement in the regulation for the procurement mechanism in energy projects, both mine-mouth and non-mine mouth power plants. The presidential regulation generally provides for the acceleration of energy infrastructure development.

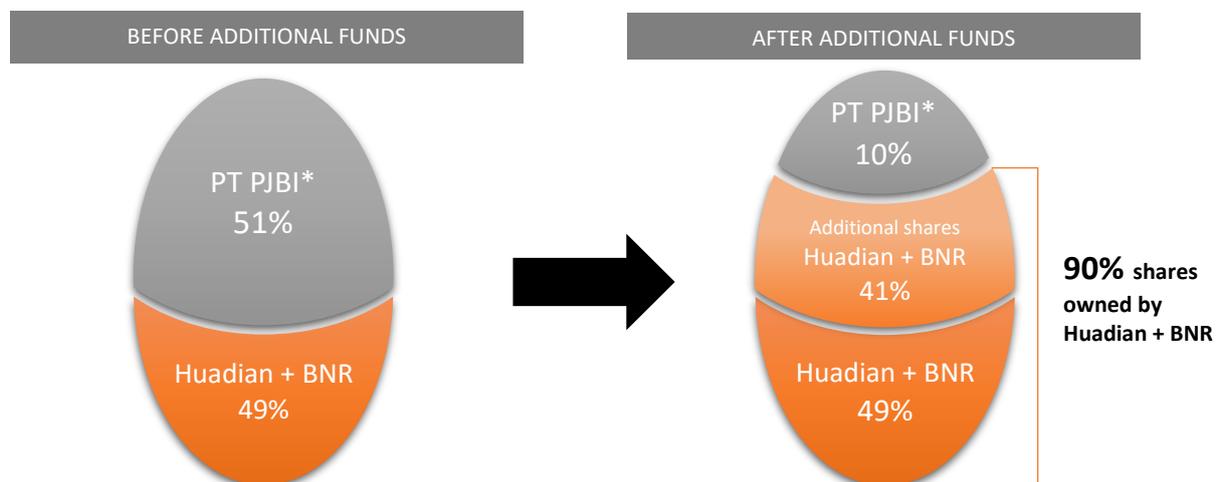
The arrangement regarding direct appointment is contained in the Ministerial Regulation of Energy and Mineral Resources Number 3 Year 2015 (PermenESDM 3/2015) and Ministerial Regulation of Energy and Mineral Resources Number 19 Year 2017 (PermenESDM 19/2017). PermenESDM 3/2015 regulates procurement through direct appointment of electricity purchase agreement, while PermenESDM 19/2017 regulates on direct appointment of electricity purchase from mine-mouth power plants.

Thus it is clear that there are no regulations or arrangements regarding direct appointment in procurement of mine-mouth power plants.

Sofyan Basir’s statement regarding the obligation to have 51% share by PLN or its subsidiary towards mine-mouth power plants is also misleading. In claiming that by having 51% share could be the basis for direct appointment of PLN and the Huadian and Blackgold Natural Resources (BNR) consortium, Basir raises suspicions that he is building an alibi to cover a possible fraud.

According to Sofyan Basir’s testimony, PLN and its subsidiary only had 10% of funding capacity for the project, so that additional 41% investment was needed. The questions this raises are: What kind of calculation was used by PLN that determined it only had such capacity? And what is the value per stock of the remaining 41%? If the proportion covering the electricity selling price once the plant operated, it should also be questionable about the rate of electricity sanctioned to the user (through PLN). Although it is mentioned that it was offered to another six companies, including Huadian and BNR in the consortium should be questioned, mainly because the two parties already owned 49% share of the project. **This means that Sofyan Basir’s actions should be suspected of making PLN a minority shareholder so that the 90% of the ownership belong to the Huadian and BNR consortium.**

SHARE OWNERSHIP OF the PLTU MT RIAU-1



*PT PJBI (PT Pembangkitan Jawa Bali Investasi) owned by PLN through its subsidiary PT Pembangkitan Jawa Bali (PJB)

Source: compiled from the testimonies of Rudi Herlambang and Sofyan Basir at the court hearing

Moreover, later in Basir's testimony he revealed that as President Director of PLN he signed an empty PPA document, even though he argued that he was going overseas so there would be a long delay if the signing was done after his return to Indonesia. It was also revealed later that the signing was done even when the joint venture agreement between all companies involved had not existed at all. **Thus the basis of Sofyan Basir as President Director of PLN in signing the empty PPA document should be questioned.**

Based on the aforementioned, KPK Prosecutor needs to examine the truth of every statement of witness Sofyan Basir and cross-examine it with other witnesses' statements and evidence relating to the corruption case of PLTU MT Riau-1. The KPK must also further examine the consequences that will occur when the PLTU MT Riau-1 begins operation, including financial schemes and the payment of electricity purchases by the citizen-users through PLN.

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