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ELECTRICITY PURCHASE AGREEMENT BETWEEN PT. PLN (PERSERO) SAMARINDA CITY WITH CUSTOMERS

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ABSTRACT

In order for the community to get electricity, they must subscribe to electricity with PT. PLN (PERSERO). The electricity subscription is contained in the agreement, namely the Power Purchase Agreement (SPJBTL) in the form of a standard agreement and the agreement has been determined and made unilaterally by PT. PLN (PERSERO). The standard agreement allows for problems in practice in the field, such as turning on the electricity supply and slowing down the rotation of the meter. In this case, it is an act of default that is detrimental to PT. PLN (PERSERO).

The purpose of the study was to determine: (1) the form of the electricity purchase agreement made by PT. PLN (PERSERO) UP3 Samarinda with customers; and (2) the legal consequences of the power purchase agreement between PT. PLN (PERSERO) UP3 Samarinda with customers if one party defaults,

The type of research used is normative juridical research, the problem approach used in writing this thesis is the statutory approach (Statueapproach).

The results of the study show that: (1) the Power Purchase Agreement (SPJBTL) at PT. PLN (PERSERO) UP3 Samarinda, is a standard contract or standard agreement, due to the availability of the terms of the agreement and the consumer just agrees to it. However, the agreement for the electricity bill and the late fee, PT. PLN (PERSERO) will use this standard to invite default between one of the parties. Therefore, the agreement contains the rights and obligations between the two parties, as they are required to submit to and comply with the agreement along with the forms of violations and sanctions; (2) The customer pays the electricity bill no later than the 20th of every month if the customer has not carried out his obligations, a late fee will also be charged. Furthermore, if the customer cannot pay the fee, he will make a temporary termination.

KEYWORDS

Electricity Sales and Purchase Agreement, PT. PLN (PERSERO), Customers, Legal Consequences.



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INTRODUCTION

The rapid development of technology in the era of globalization and the increasing number of population causes the need for electricity to also increase. Many tools that support human life require the availability of electricity, for example refrigerators, televisions, lights, charging cellphone batteries and other electronic devices. Therefore, electric power must always be available.

In this regard, the government needs to make arrangements and arrangements regarding the implementation of national electricity by appointing a State-Owned Enterprise (BUMN), namely PT. PLN (PERSERO).

To get electricity, people have to buy it by subscribing to electricity with PT. PLN (PERSERO). "In general, the legal relationship that exists between electricity business actors and electricity consumers is a direct relationship, namely the relationship that exists between consumers and business actors who are directly bound by an agreement [1].

The power purchase agreement (SPJBTL) is in the form of a standard agreement that has been determined and made unilaterally by PT. PLN (PERSERO), so that PT. PLN (PERSERO) has provided the terms of the agreement and the consumers just have to agree. Standard agreement, almost all opposing parties are not given the opportunity to hold real bargaining.

It is possible for a standard agreement to be in default by one of the parties which can cause losses to one of the parties to the agreement or losses that arise not because of an error on the part of one of the parties in the agreement [2]. This can cause an imbalance for consumers, due to which only one party determines the terms of the agreement, namely PT. PLN (PERSERO). Therefore, an agreement should contain provisions regarding achievements and defaults, the rights and obligations of the parties, as well as provisions regarding sanctions for parties who violate the provisions of the agreement, both concerning basic requirements or committing technical violations.

RESEARCH METHODS

Time and place

The research was carried out from January 2022 to March 2022, the research site at PT. PLN Persero Branch Office Jl. DI. Panjaitan

Research methods

The method used in the research is normative juridical and the problem approach uses the Legislative approach

Source of Legal Material

Sources of Primary, Secondary, Non-Legal Legal Materials used are: (1) the Civil Code, (2) Law Number 30 of 2009 concerning Electricity, (3) Law of the Republic of Indonesia Number 8 of 1999 concerning Protection Consumers, (4) Regulation of the Minister of Energy and Mineral Resources of the Republic of Indonesia Number 27 of 2017 concerning Service Quality Levels and Costs Associated with the Distribution of Electricity by PT Perusahaan Listrik Negara (PERSERO), and (5) Decree of the Board of Directors of PT. PLN No. 1486.K/DIR/2011 concerning Control of Electricity Usage (P2TL).

Legal Materials Collection and Processing Techniques

The technique of collecting and processing legal materials is literature study Legal Material Analysis. The analysis of legal materials used is descriptive, interpretation (interpretation), and legal reasoning.

THEORETICAL FRAMEWORK

A. Power Purchase Agreement Letter

1. Understanding Legal Relations

Law is a governing and coercive power.

"The law regulates the relationships that arise from the association of human society (relationships arising from marriage, descent, regional relatives, neighbours, residence, nationality, from trade and the provision of various services and from other matters), and these things are done with determine the limits of each person's power and obligations towards those with whom he relates [3]

One of the conditions for the existence of a legal relationship is the existence of a legal event such as buying and selling. Article 1457 of the Civil Code states that:

"Buying and selling is an agreement whereby one party binds himself to deliver an object, and the other party pays the promised price.

2. Definition of Electricity Sales and Purchase Agreement

The Power Purchase Agreement (SPJBTL) is stated in a form, and before the signing of the agreement, the Customer first submits an application and fills out the application form provided by PT. PLN (PERSERO). "The Power Purchase Agreement (SPJBTL) is a unilateral standard agreement, namely an agreement whose contents are determined by a party whose position is strong in the agreement [4]

SPJBTL is an agreement agreed by both parties, namely PT. PLN (PERSERO) and customers which contain and limit the rights and obligations of the parties with the aim that the agreement can be implemented in accordance with applicable regulations to avoid actions that can harm one party or both parties who agreed to the agreement.

3. Obligations of PT. PLN (PERSERO)

In the Power Purchase Agreement, several rights and obligations of PT. PLN (PERSERO) and customers, namely:

a. *Obligations of PT. PLN (PERSERO):*

- 1) The First Party (PT. PLN) is willing to sell and distribute electricity to the Second Party (Customers).
- 2) Distribution of electricity by the First Party (PT. PLN) is carried out continuously without interruption, except in the following cases:
 - a) there is a force majeure including riots, war riots, strikes, fires, earthquakes, floods, landslides, volcanic eruptions, tsunamis, fallen trees, lightning, airplane accidents, theft of electric cables which result in the interruption of electricity distribution, due to the existence of Government Regulation (in this case the first party does not provide compensation);
 - b) temporary termination of the installation of the second party as a follow-up to the provisions;
 - c) During peak loads, which from time to time require a blackout by the first party;
 - d) The first party performs maintenance and or repair of the generator and or network;
 - e) By order of the authorized installation or court decision.

b. *Rights of PT. PLN (PERSERO):*

- 1) The first party is entitled to a connection fee paid by the second party.
- 2) The first party has the right and is permitted by the second party at any time to enter the second party's parcel to carry out control of the use of electricity in the second party's premises / parcel without prior notification, and if violations and/or abnormalities are found, the second party will be subject to sanctions in accordance with the provisions laid down. apply.
- 3) The first party has the right and is permitted by the second party at any time to enter the second party's plot to carry out network maintenance and or network installation activities.

c. *Customer Obligations:*

- 1) The Second Party (Customer) must notify PT. PLN (PERSERO) (First Party) regarding the transfer of ownership or control of parcels and or buildings from the Second Party to other parties or heirs or substitutes of the Second Party no later than 14 (fourteen) days after the transfer or control and;

- 2) The Second Party is obliged to maintain the installation belonging to the First Party which is on the plot of the Second Party and immediately report to the First Party if there is an abnormality.
- 3) The second party is obliged to pay a follow-up bill in accordance with the applicable provisions due to the discovery of indications of violations/interference/abnormalities in the use of electricity and or the use of electricity that is not fully measured due to the measurement equipment working abnormally not due to the fault of the second party.

B. Overview of PT. PLN (PERSERO)

1. History of PT. PLN (PERSERO)

The process of power transfer again occurred at the end of World War II in August 1945, when Japan surrendered to the Allies. Youth and electricity workers took advantage of this opportunity through a delegation of electricity and gas workers/employees who together with the leadership of the Central Indonesian National Committee (KNI) took the initiative to meet President Soekarno to hand over these companies to the Government of the Republic of Indonesia. "On October 27, 1945, President Soekarno established an electricity and gas service under the department of public works and power with a power generation capacity of 157.5 megawatts (MW) [5]

Meanwhile, in an effort to create a competent and efficient company in the electricity business in Indonesia, PT. PLN (PERSERO) in running the company's wheels continues to strive to improve and develop the company's vision and mission. vision of PT. PLN (PERSERO) is recognized as a world-class company that grows, excels and is trusted by relying on human potential.

2. Form of Service PT. PLN (PERSERO)

The forms of services PT. PLN on online services through the PLN Mobile application. This online service is a part that provides all the latest information to help customers make PLN electricity transactions more efficiently. Customers can choose to install new electricity, make power changes, and make temporary electrical connections as well as complaints of disturbances and other electrical services. "Doing PLN electricity transactions has never been easier with everything under one roof [6].

3. Customers of PT. PLN (PERSERO)

Customers or service users (customers) are society in a broad sense, which can be viewed internally and externally from a bureaucracy. Internal customers are people in the work environment of their own bureaucratic organization, such as direct superiors, staff, and other related units within the relevant bureaucracy, while external customers are outsiders who use bureaucratic services, namely people in the public administration environment.

4. Prepaid Electricity

Each prepaid kWh-meter has only one specific serial number consisting of 11 digits. This serial number is what distinguishes one prepaid kWh-meter from another, so that the token code filling is guaranteed not to be mistaken. The prepaid kWh-meter has an LCD screen that displays, among others, Each prepaid kWh-meter has only one specific serial number consisting of 11 digits.

This serial number is what distinguishes one prepaid kWh-meter from another, so that the token code filling is guaranteed not to be mistaken. The prepaid kWh-meter has an LCD screen that displays, among other things. Smart Electricity is a prepaid electricity service that allows customers to control their own electricity usage according to their needs and abilities. Similar to top-up credit on a cellular phone, in a smart electricity system, customers first purchase a rechargeable electricity token (token) through ATM outlets of a number of banks or through online electricity bill payment counters.

5. Postpaid Electricity

So far, PLN customers have received postpaid electricity services, i.e. customers use electricity first and pay later in the following month. With postpaid electricity services, every month PLN must record the meter, calculate and issue an account that must be paid by the customer, bill late or non-paying customers, and cut off electricity if the consumer is late or does not pay the electricity bill after a certain time. This mechanism is not implemented in the Prepaid Electricity system.

C. Overview of the Agreement

1. Definition of Agreement

An agreement is an event that involves the parties by promising each other to carry out a certain action. The definition of an agreement is regulated in Article 1313 of the Civil Code, namely "An agreement is an act where one or more people bind themselves to one or more other people".

Every engagement is born, either because of a law (Article 1233 paragraph (1) of the Civil Code). If it is formulated differently, it can be said that the agreement is formulated differently, then it can be said that the agreement is one of the sources of the birth of the engagement, by making an agreement, one or more parties in the agreement bind themselves to fulfill the obligations as promised. [7]

According to Subekti, an agreement is an event where one person promises to another person or where two people promise each other to carry out something. From that event, a relationship arose between the two people which was called an engagement. The agreement publishes an agreement between two people who make it, in the form of the agreement in the form of a series of words containing promises or promises that are spoken or written. [8]

2. Valid Terms of Agreement

According to the provisions of Article 1320 of the Civil Code, there are conditions for the validity of an agreement, namely:

- a. There is an agreement between the parties.
- b. Action Skills
- c. A certain thing or the existence of an object of agreement
- d. A Halal Cause or Cause

3. Object of the Agreement

The object of the agreement is an achievement that can be in the form of giving something, to do something, or not to do something. Therefore, the goods that are the object of an agreement must be certain enough, at least the form and amount can be determined, so that they become legal according to law. In addition, the object of the agreement must not be from a cause that is prohibited by law and does not conflict with public order and morality. As for what is meant by the subject in the agreement, namely the parties who can be interpreted as supporters of rights and obligations. In this case the obligations are borne by one party and the rights or benefits obtained by the other party by demanding the implementation of what has been agreed in the agreement. These parties are referred to as debtors and creditors.

4. Covenant Principles

Principles of Agreement According to Article 1338 paragraph (1) of the Civil Code, all agreements made legally apply as laws for those who make them. Thus, it contains the principle of freedom of contract whose implementation is limited by coercive law. Here are some important principles in an agreement, namely: (1) the principle of consensualism, (2) the principle of freedom of contract, (3) the principle of trust, (4) the principle of binding power, (5) the principle of balance, (6)

the principle of good faith , (7) Legal Certainty Principles, (8) Moral Principles, (9) Proper Principles, (10) Customary Principles, (11) Protection Principles, and (12) Personality Principles.

5. Types of Agreements

Covenant law is part of the law of engagement. Based on performance obligations, the agreement consists of several types, namely: (a) Reciprocal and Unilateral Agreements, (2) Named and Unnamed Agreements, (3) Obligator and Material Agreements, and (4) Consensual and Real Agreements.

D. Legal Consequence Theory

Legal consequences are consequences caused by legal events [9]

Legal consequences can take the following forms[10]:

1. The birth, change or disappearance of a legal situation;
2. The birth, change or disappearance of a legal relationship, between two or more legal subjects, where the rights and obligations of one party are in conflict with the rights and obligations of the other party; and
3. The imposition of sanctions if it is done against the law.

Legal consequences arise from a legal event that precedes it, and to know the definition of the legal effect itself, we must first know about: (1) Legal Events; (2) Legal Acts; and (3) Unlawful Acts.

RESULTS AND DISCUSSION

A. Form of Electricity Sale and Purchase Agreement Conducted by PT. PLN (PERSERO) Samarinda City With Customers

Electricity is a vital need that is needed by the community to support daily activities in order to meet their needs. To get electricity, people have to buy electricity by subscribing to PT. PLN (PERSERO) and to be able to subscribe to the community must meet the requirements and procedures that have been determined by PT. PLN (PERSERO). If you have fulfilled the requirements for subscribing to electricity, it means that the community as consumers has bound themselves in an electric power sales agreement with PT. PLN (PERSERO).

The legal relationship between the customer and PT. PLN (PERSERO) one of which occurred because of a legal event, namely the sale and purchase of electricity. Buying and selling according to Article 1457 of the Civil Code is "an agreement in which one party binds himself to surrender an object, and the other party pays the agreed price"

The sale and purchase of electricity is stated in a form of agreement, namely the Power Purchase Agreement (also known as SPJBTL). The Power Purchase Agreement is an agreement from the seller in this case is PT. PLN (PERSERO) to provide goods/objects, namely electricity that is generated, transmitted and distributed to buyers, namely consumers for their needs and consumers are bound to pay the price for the electricity they use.

The sale and purchase agreement for electricity has a difference with the sale and purchase agreement in general, because in the power purchase agreement there is no transfer of ownership rights to the goods being traded. The goods traded (electricity) as a whole still remain the property of the seller and the seller only delivers electricity according to the amount of energy needed to the customer continuously until the customer terminates the agreement.

The difference between the power purchase agreement and the general sale and purchase agreement is the technical implementation of the delivery of the objects that are the object of the agreement itself and does not necessarily transfer ownership rights to the customer.

The Power Purchase Agreement (SPJBTL) has the same meaning as the general sale and purchase agreement, but differs in its implementation because the object of the agreement in the power purchase agreement is electricity. In the electric power sale and purchase agreement, it is clear that the object of the agreement is an object or goods, namely electric power. Electric power is an intangible object, therefore electricity is called an intangible object.

The clause in the Power Purchase Agreement (SPJBTL) is in the form of a unilateral standard that has been determined and made unilaterally by PT. PLN (PERSERO), so that PT. PLN (PERSERO) has provided the terms of the agreement and the consumers just have to agree.

SPJBTL agreed by both parties, namely PT. PLN (PERSERO) and customers in which it contains and limits the rights and obligations of the parties with the aim that the agreement can be implemented in accordance with applicable regulations to avoid actions that can harm one party or both parties who agreed to the agreement.

Regarding the power purchase agreement made by PT. PLN (PERSERO) UP3 Samarinda. The resource person, Mrs. Fajar Eka, as SPV YAN GAN & ADM, provided information to assist the author regarding the form of the power purchase agreement.

SPJBTL set by PT. PLN (PERSERO) UP3 Samarinda, in the agreement the rights and obligations between the two parties have been contained, namely as follows:

1. Obligations of PT. PLN (PERSERO) UP3 Samarinda:

- a. The first party (PT. PLN (PERSERO) UP3 Samarinda) is a party who is willing to sell and distribute electricity to a second party (customer).
- b. The distribution of electricity by the first party (PT. PLN (PERSERO) UP3 Samarinda), must carry out continuously without interruption, except in the following cases:
 - 1) There has been a force majeure including riots, war riots, strikes, fires, earthquakes, floods, landslides, volcanic eruptions, tsunamis, fallen trees, lightning, airplane accidents, theft of electric cables which resulted in the cessation of electricity distribution.
 - 2) Temporary disconnection to the second party installation is carried out;
 - 3) At peak load times, which at any time require a blackout by the first party;
 - 4) The first party performs maintenance and or repair of generators and or networks and;
 - 5) By order of the competent authority or court decision.

2. Rights of PT. PLN (PERSERO) UP3 Samarinda:

- a. The first party, is entitled to a connection fee paid by the second party.
- b. The first party is entitled and permitted at any time by the second party to enter the premises or parcels of the second party to control the use of electricity in the premises of the second party without prior notification, and if violations and/or abnormalities are found, the second party will be subject to sanctions in accordance with the provisions applicable.
- c. The first party is entitled and permitted at any time by the second party to enter the second party's plot to carry out network maintenance and or network installation activities.

3. Customer Obligations:

- a. The second party, must notify PT. PLN (PERSERO) UP3 Samarinda as the first party regarding the transfer of ownership or control of premises or parcels and or buildings from the second party to another party or the heirs or substitutes of the second party no later than 14 (fourteen) days after the transfer or control;
- b. The second party is obliged to maintain the installation belonging to the first party which is in the place of the second party and immediately report to the first party if there is an abnormality.
- c. The second party is obliged to pay a follow-up bill in accordance with the applicable provisions due to the finding of indications of violations/interferences/abnormalities in the use of electricity and or the use of electricity that is not fully measured due to the measurement equipment working abnormally not due to the fault of the second party.

Based on the explanation above, the author concludes that the form of a power purchase agreement at PT. PLN (PERSERO) UP3 Samarinda is in the form of a standard agreement. The reason is PT. PLN (PERSERO) UP3 Samarinda has provided the terms of the agreement and the consumers just need to agree. SPJBTL also contains rights and obligations between parties who are obliged to perform achievements.

B. Legal Consequences on the Power Purchase Agreement between PT. PLN (PERSERO) UP3 Samarinda With Customers If One of the Parties Defaults

According to Mrs. FajarEka as SPV YAN GAN & ADM as a resource person, said that the obligations and rights of the parties in this power purchase agreement must be affirmed and fulfilled, so as not to cause problems that can harm the parties, each party must understand which rights and obligations to be fulfilled. The fulfillment of these rights and obligations is a form of legal consequences in an agreement.

Fulfillment of the rights and obligations of the customer who is not fulfilled due to late payment of electricity up to the 20th of each month, resulting in power cuts for postpaid electricity users, the legal consequence of the delay is that postpaid electricity customers cannot enjoy electricity until the customer pays the bill electricity and late fees, but this is not an opportunity for PT. PLN (PERSERO) UP3 Samarinda to replace postpaid electricity with prepaid electricity.

According to Article 6 to Article 10 of the Postpaid Electricity Agreement, that the second party as a customer must pay the electricity bill no later than the 20th of each month's account. If the second party does not pay it will be subject to a late fee and if the second party cannot pay the electricity bill fee and the late fee, the first party, namely PT. PLN (PERSERO) UP3 Samarinda will terminate. When the second party cannot pay the electricity bill and late fees, the first party has the right to terminate the agreement and the sanctions imposed on the customer by PT. PLN (PERSERO) UP3 Samarinda will complete the termination, such as stopping the distribution of electricity by taking part or all of the installation in the second party building as a customer.

Referring to Article 16 paragraph (2) of the Consumer Protection Law, it is stated that business actors in offering goods and/or services are prohibited from not keeping their promises for a service and/or achievement. If, it is PT. PLN (PERSERO) UP3 Samarinda is in default as stated in the provision, then it can be subject to criminal sanctions as stated in Article 62 paragraph (2) of the Protection Act.

CONCLUSIONS AND RECOMMENDATIONS

A. Conclusion

Based on the results of the study and discussion, the following conclusions can be drawn:

- I.** Power Purchase Agreement (SPJBTL) at PT. PLN (PERSERO) UP3 Samarinda, is a standard contract or standard agreement, due to the availability of the terms of the agreement and the consumer just agrees to it. However, this standard agreement can invite default between one of the parties. Therefore, the agreement contains the rights and obligations between the two parties, as they are required to submit and comply with the agreement along with the forms of violations and sanctions.

Fulfillment of rights and obligations of customers who are not fulfilled due to late payment of electricity until the 20th of every month. If the customer has not fulfilled his obligations, a late fee will also be charged. Furthermore, if the customer is unable to pay off the electricity bill and late fees, PT. PLN (PERSERO) will make a temporary termination. Furthermore, in order to minimize the violations that occurred in the field, PT. PLN (PERSERO) conducts Control of Electricity Consumption (P2TL). As in accordance with the provisions of Article 19 to Article 21 of the Decree of the Board of Directors of PT. PLN No. 1486.K/DIR/2011 concerning Control of Electricity Usage (P2TL).

B. Suggestion

- I.** It is hoped that the making of this power purchase agreement will involve PT. PLN (PERSERO) UP3 Samarinda with customers in order to create a balance meaning that no one is more benefited or more disadvantaged. The provisions contained in the agreement should be adjusted to Law Number 8 of 2009 concerning Consumer Protection, especially regarding the regulation

of the inclusion of standard clauses and must also be adjusted to Law Number 30 of 2009 concerning Electricity.

2. The community as consumers who use electrical energy should know what their rights and obligations are so that in the future consumers can understand their position and can prevent things that might harm them or burden them.

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