

**MINISTER OF ENERGY AND MINERAL RESOURCES OF
THE REPUBLIC OF INDONESIA
REGULATION NUMBER 10 YEAR 2014**

**PROCEDURES ON SUPPLY AND STIPULATION OF COAL PRICING
FOR MINE-MOUTH POWER PLANTS**

BY THE GRACE OF GOD ALMIGHTY

**MINISTER OF ENERGY AND MINERAL RESOURCES OF
THE REPUBLIC OF INDONESIA**

Considering:

- a. Whereas the supply of electricity must be continuously assured with good quality and reliability to support increased development;
- b. Whereas in the framework of supporting the supply of electricity, it is necessary to utilize mine-mouth coal optimally to develop Mine-Mouth Power Plants;
- c. Whereas to support the development of Mine-Mouth Power Plants, security of coal supply and certainty of stipulated coal pricing for Coal Mine Power Plants are required.
- d. Whereas based on the considerations as mentioned in letter a, letter b and letter c, it is necessary to stipulate a Minister of Energy and Mineral Resources Regulation regarding Procedures on Supply and Stipulation of Coal Pricing for Mine-Mouth Power Plants:

In view of:

1. Law No. 30 of 2007 regarding Energy (State Gazette of the Republic of Indonesia Year 2007 Number 96, Supplement to the State Gazette of the Republic of Indonesia Number 4746);
2. Law Number 4 Year 2009 regarding Mineral and Coal Mining (State Gazette of the Republic of Indonesia Year 2009 Number 4, Supplement to the State Gazette of the Republic of Indonesia Number 4959);
3. Law Number 30 Year 2009 regarding Electricity (State Gazette of the Republic of Indonesia Year 2009 Number 133, Supplement to the State Gazette of the Republic of Indonesia Number 5052);
4. Government Regulation Number 23 Year 2010 regarding Implementation of Activities of Mineral and Coal Mining Business (State Gazette of the Republic of Indonesia 2010 Number 29, Supplement to the State Gazette of the Republic of Indonesia Number 5111) as amended twice, lastly by Government Regulation Number 1 Year 2014 (State Gazette of the Republic of Indonesia Number 1, Supplement to the State Gazette of the Republic of Indonesia Number 5489);

5. Government Regulation Number 14 Year 2012 regarding Power Supply Business Activity (State Gazette of the Republic of Indonesia 2012 Number 28, Supplement to the State Gazette of the Republic of Indonesia Number 5281);
6. Presidential Regulation Number 5 Year 2006 dated January 25, 2006, regarding National Energy Policy;
7. Presidential Decree Number 59/P Year 2011 dated October 18, 2011;
8. Minister of Energy and Mineral Resources Regulation Number 34 Year 2009 regarding the Prioritization of Mineral and Coal Supply Needs for Domestic Interest (State Gazette of the Republic of Indonesia Year 2009 Number 546);
9. Minister of Energy and Mineral Resources Regulation Number 17 Year 2010 regarding Procedure for the Stipulation of Benchmark Pricing for Mineral and Coal (State Gazette of the Republic of Indonesia Year 2010 Number 463);
10. Minister of Energy and Mineral Resources Regulation Number 18 Year 2010 regarding Organization and Work Procedures of the Ministry of Energy and Mineral Resources (State Gazette of the Republic of Indonesia Year 2010 Number 552) as amended by Minister of Energy and Mineral Resources Regulation Number 22 Year 2013 (State Gazette of the Republic of Indonesia Year 2013 Number 1022);
11. Minister of Energy and Mineral Resources Regulation Number 35 of 2013 regarding Licensing Procedure for Power Business (State Gazette Year 2013 Number 1524);

HAS DECIDED:

To stipulate:

MINISTER OF ENERGY AND MINERAL RESOURCES OF THE REPUBLIC OF INDONESIA REGULATION REGARDING PROCEDURES ON SUPPLY AND STIPULATION OF COAL PRICING FOR MINE-MOUTH POWER PLANTS.

CHAPTER I

GENERAL PROVISIONS

Article 1

In this Minister Regulation, referred to herein as:

1. Coal means organic carbon compounds formed by nature, from plant residue.
2. Coal Pricing for Mine-Mouth Power Plant means a price stipulated specifically for Coal that is used as fuel for steam power plants and Coal gas power plants that are constructed near the Coal mining location.
3. Coal Base Price means the base price offered by a mining company in the procurement process for the supply of fuel for a Mine-Mouth Power Plant.
4. Mine-Mouth Power Plant means a steam power plant and Coal gas power plant that uses Coal fuel for which the availability of Coal is guaranteed by a mining company located near the Mine-Mouth Power Plant in accordance with arrangements in a Coal sale agreement.
5. Mining Company means a company that engages in Coal mining activities.
6. Mine-Mouth Power Plant Company means a holder of a Power Supply Business License that operates a Mine-Mouth Power Plant.

7. Mining Operation Production Business License for Coal, hereinafter referred to as IUP Operation Production for Coal, means a business license that is granted after the implementation of a Coal Mining Exploration Business License to engage in Coal production activities.
8. Special Mining Operation Production Business License for Coal, hereinafter referred to as IUPK Operation Production for Coal, means a business license that is granted after the implementation of a Special Mining Exploration Business License for Coal to engage in Coal production activities at a Special Mining Business License Area for Coal.
9. Cooperation Agreement on Coal Mining Business, referred to as a CCOW, means an agreement between the Government of the Republic of Indonesia and an Indonesian legal entity to engage in coal mining business activities.
10. Power Supply Business License, hereinafter referred to as an IUPTL, means a license to engage in power supply business for public interest.
11. Minister means the minister responsible for governmental affairs in the mineral and coal mining sector.
12. Director General means the Director General having duties and responsibilities in the mineral mining sector.

CHAPTER II

THE SUPPLY OF COAL FOR THE DEVELOPMENT OF MINE-MOUTH POWER PLANTS

Article 2

1. The supply of coal for the development of a Mine-Mouth Power Plant is conducted based on a Coal sale agreement between a Mining Company and a Mine-Mouth Power Plant Company.
2. The supply of coal for the development of a Mine-Mouth Power Plant may be provided by more than 1 (one) Mining Company.
3. A Mine-Mouth Power Plant as referred to in paragraph (1) may be:
 - a. the holder of an Integrated IUPTL; and
 - b. the holder of a generator IUPTL.
4. The Mining Company shall ensure the supply of coal to the Mine-Mouth Power Plant in accordance with the Coal sale agreement or the period of the power purchase agreement.

Article 3

1. A Mining Company as referred to in Article 2 may be a holder of:
 - a. an IUP Operation Production for Coal;
 - b. an IUPK Operation Production for Coal; and
 - c. a CCOW.

2. A Mining Company as referred to in paragraph (1) shall meet the conditions, among others:
 - a. possess a clear and clean certificate if a holder of an IUP Operation Production for Coal;
 - b. have allocated reserves and quality of Coal in accordance with the requirements of the Mine-Mouth Power Plant;
 - c. have the approval of the Coal Base Price from the Director General.

Article 4

A Mine-Mouth Power Plant company if an integrated IUPTL holder as referred to in Article 2 paragraph (3) letter a is a state-owned entity that engages in the integrated power supply business in the public interest.

Article 5

1. A Mine-Mouth Power Plant Company if a generator IUPTL holder as referred to in Article 2 paragraph (3) letter b is a consortium established by a Mining Company through its affiliates with another business entity.
2. A Consortium as referred to in paragraph (1) shall establish an Indonesian legal entity as a Mine-Mouth Power Plant Company.
3. Shares in the Mine-Mouth Power Plant Company as referred to in paragraph (2) must be owned at least 10% (ten percent) by the Mining Company through its affiliate.

CHAPTER III

PROCEDURES FOR THE STIPULATION OF COAL PRICING

First Section

General

Article 6

1. Coal Pricing for a Mine-Mouth Power Plant is calculated based on the Coal Base Price after calculating for escalation.
2. Coal Pricing for a Mine-Mouth Power Plant as referred to in paragraph (1) is the price calculated at the stockpile facility selling point of the Mine-Mouth Power Plant.

Article 7

The Coal Base Price as referred to in Article 6 paragraph (1) is calculated based on a formula of production costs plus margin.

Second Section

Production Cost

Article 8

1. Production costs as referred to in Article 7 are calculated based on production costs as stipulated by the Director General.
2. The Director General stipulates the production costs as referred to in paragraph (1) by considering developments in mining technical conditions and other factors affecting average national production costs, including:
 - a. overburden stripping costs;
 - b. Coal excavation;
 - c. carriage of Coal from mining location to the processing location;
 - d. Coal processing;
 - e. environmental monitoring and management;
 - f. reclamation and post-mining;
 - g. occupational health and safety;
 - h. society development and empowerment;
 - i. land acquisition/replacement;
 - j. overhead;
 - k. depreciation and amortization; and
 - l. fixed contribution and/or production/royalty contribution.
3. Production costs as referred to in paragraph (2) include tax and other costs that occur in the Coal production process, but exclude the Coal carriage cost from the processing location to the stockpile facility of the Mine-Mouth Power Plant.

Third Section

Margin

Article 9

Margin as referred to in Article 7 covers the profit and risks of the Mining Company in the amount of 25% (twenty-five percent) from the total production costs as referred to in Article 8.

Fourth Section

Stipulation of Coal Base Price

Article 10

1. The Mining Company shall submit the application for Coal Base Price approval as referred to in Article 7 to the Minister c.q. Director General.
2. The application for a Coal Base Price approval as referred to in paragraph (1) must be appended with the following requirements:

- a. copy of IUP Operation Production for Coal or IUPK Operation Production for Coal;
 - b. copy of clear and clean certificate if holding an IUP Operation Production for Coal;
 - c. production and mining plan; and
 - d. feasibility study and/or environmental document that has been approved.
3. The Director General on behalf of the Minister shall evaluate the application for Coal Base Price approval as referred to in paragraphs (1) and (2).
 4. Based on the evaluation as referred to in paragraph (3), the Director General shall grant the Coal Base Price approval within a maximum period of 14 (fourteen) working days from receipt of the application in complete and correct form.
 5. The Mining Company may only offer for the sale and purchase of Coal with a Mine-Mouth Power Plant after securing the Coal Base Price approval from the Director General on behalf of the Minister.

Article 11

The Coal Base Price as referred in Article 10 will continue to apply for the period of the Coal sale agreement or power purchase agreement.

Fifth Section

Escalation

Article 12

1. Escalation as referred to in Article 6 paragraph (1) will apply from:
 - a. execution of the Coal sale agreement if the Mine-Mouth Power Plant is developed by an integrated IUPTL holder; or
 - b. execution of the power purchase agreement if the Mine-Mouth Power Plant is developed by a generator IUPTL holder.
2. Escalation as referred to in paragraph (1) shall be stipulated based on an amendment every 1 (one) year based on:
 - a. Rupiah exchange rates;
 - b. the price of diesel;
 - c. the Consumer Price Index;
 - d. the regional minimum wage.
3. Escalation as referred to in paragraph (1) must be adjusted every 12 (twelve) months.

4. Escalation as referred to in paragraph (2) and paragraph (3) shall be stipulated based on:
 - a. an agreement between the Mining Company and the Mine-Mouth Power Plant if the Mine-Mouth Power Plant is developed by an integrated IUPTL holder; or
 - b. an arrangement that is covered under the power purchase agreement if the Mine-Mouth Power Plant is developed by a generator IUPTL holder.

CHAPTER IV

NON-TAX STATE REVENUE

Article 13

1. Calculation of obligatory non-tax state revenue in the form of production/royalty contributions by the Mining Company follows the higher of the Coal Pricing for the Mine-Mouth Power Plant as referred to in Article 6 and production costs as stipulated by the Director General as referred to in Article 8 for the current year plus margin.
2. The difference in the calculation as referred to in paragraph (1):
 - a. will be borne by the Power Plant Company if the Mine-Mouth Power Plant is developed by an integrated IUPTL holder;
 - b. will be borne jointly by the parties in the power purchase agreement in equal percentages if the Mine-Mouth Power Plant is developed by a generator IUPTL holder.

CHAPTER V

ANCILLARY PROVISIONS

Article 14

1. A Mining Company may enter into a Coal sale agreement with other Mine-Mouth Power Plant Companies insofar as the Mining Company has allocated reserves and quality of Coal in accordance with the requirements of the Mine-Mouth Power Plant.
2. The Coal sale agreement as referred to in Article (1) must be in accordance with the provisions as stated in Article 6 through Article 13.

CHAPTER VI

TRANSITIONAL PROVISIONS

At the time this Minister Regulation comes into effect, Coal Pricing for Mine-Mouth Power Plants that have obtained power pricing approval from the Minister, arising from tender and/or direct appointment, as stipulated in a power purchase agreement before the effectiveness of this Minister Regulation, shall remain in effect until their terms have expired.

CHAPTER VII
CLOSING PROVISIONS

Article 16

This Minister Regulation shall come into force on the date of its enactment.

For public cognizance, this Regulation of the Minister shall be promulgated by placing it in the State Gazette of the Republic of Indonesia.

Stipulated in Jakarta
on April 4, 2014

THE MINISTER OF ENERGY AND MINERAL RESOURCES,

Signed

JERO WACIK

Promulgated in Jakarta
on April 7, 2014

THE MINISTER OF LAW AND HUMAN RIGHTS, REPUBLIC OF INDONESIA
Signed

AMIR SYAMSYUDIN

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2014 NUMBER 449