



Research Paper

A Theoretical Review of the Collaborative Role of the State in Providing Electricity to the People

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ABSTRACT: *Well-being in the context of the development of electrical energy can be seen as part of the State's collaborative relationship in managing natural resources. This is the mandate of the Constitution of the Republic of Indonesia in 1945 to manage natural wealth to be used for the greatest prosperity of the people. The inability of the State to independently meet the needs of electricity for the people expects cooperation with the private sector so that the State's efforts in realizing welfare can be realized. Collaborative efforts are a form of state role through participatory policies involving the private sector by providing business cooperation space to meet the needs of electricity for the people by not excluding the state controlling function.*

KEYWORDS: *Role of State, Electricity Business, Private Sector*

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I. INTRODUCTION

One of the national development goals is to create a just and prosperous society. This is indeed inseparable from the mandate of the constitution, the Constitution of the Republic of Indonesia in 1945. Realizing a prosperous, just society is the way to achieve the ideal of welfare as stated in the opening text of the 1945 Constitution in the fourth paragraph, namely advancing the general interest as part of the state goal. Prosperity is the goal of any country in the world. Therefore, a country's resources have become an essential factor in formulating policy. These resources can be natural wealth and can be human resources. In reality, some countries have adequate natural resources but do not have enough human resources and vice versa. But does a country with sufficient natural resources mean that its people are prosperous? Or vice versa, does a country with only the potential of human resources but is not supported by natural wealth mean that it cannot prosper? This question becomes interesting to reflect because countries that have natural wealth are left behind in terms of welfare compared to countries that only have human resource potential but are not supported by natural wealth.

The meaning of well-being can be found in terms of how society enjoys its natural wealth for the sake of its survival. In the context of development, the sustainability of people's lives can be seen as one of them from the extent of productivity in the economic aspect. An important factor that influences economic development about the utilization of natural resources is developing energy resources such as electrical energy. That is why developed countries characterized by the progress of the industrial sector, very concerned about the development of the electricity sector to ensure that productivity can continue to increase along with the high level of industrial competitiveness for the welfare of its citizens (Maxensius Tri Sambodo et.al, 2016). To realize the welfare of its people, the State cannot be present as a single organizer in the context of electricity provision and development. The private component cannot be ruled out in any state administration activities as part of the State's relations, personal (market) and the people (civil society). Both State and private sector have their scope in running a more collaborative system in the electricity business.

II. LITERATURE REVIEW

A. State Functions in the Provision of Electrical Energy

In the review of the theory of the function of the state, I found several ideas put forward by thinkers, including W. Friedmann. According to him, the part of the state consists of four functions, namely:

1. As a guarantor of welfare, the state as the provider;
2. As a regulator, or as a regulator;
3. As an entrepreneur, as an entrepreneur; and

4. As a referee, or the state as umpire (Aminuddin Ilmar, 2012, p. 12)

The function of the state provider can be seen from the extent to which the state is responsible for the presence of welfare for the people through services based on social needs. Therefore, this function is also significantly related to the concept of the welfare state (welfare state), which is the function of the state in organizing the public interest (Aminuddin Ilmar, 2012, p. 14). The concept of the welfare state is a development of the idea of a state "night watch" (nachwachterstaat), wherein this concept, the state is present only to provide security guarantees for its citizens. Another thing, the state is not allowed to interfere, including in economic affairs. Because the state is not present in the economic system, there are symptoms of capitalism that boil down to helplessness for the weak. As the antithesis of this concept comes the concept of a welfare state, where the state must be present in the economic system through regulations that protect the market mechanisms from monopolistic practices that result in social inequality of society (Luthfi J. Kurniawan & Mustafa Lutfi, 2012, p. 49). If examined more deeply the function of the state provider proposed by Friedmann, which is related to the emergence of the concept of the welfare state, there is a part that cannot be separated from the function of state regulators.

The emphasis of the concept of the welfare state is the existence of the rule of law (regulation) to regulate various aspects of the interests of society beyond just guaranteeing order and security. The presence of the state in the concept of a health state is in the form of regulations set to regulate state life. Therefore, the function of the provider and the regulatory function put forward by Friedmann on principle is a unity that has the exact origin of emergence. In terms of the provision of electrical energy, where the state is obliged to provide a sufficient amount of electrical energy, quality and justice. With this function of providers and regulators, the state conducts the management of energy resources based on the principle of benefits, equitable efficiency, sustainability, economic optimization in the utilization of energy resources, relying on its capabilities, healthy business rules, security and safety, sustainability of environmental functions and regional autonomy (Pasal 2 Ayat (1), 2007).

The provision of electricity by the state is part of the state's form of responsibility because electricity is a significant factor in development that encourages the realization of welfare for the people. Furthermore, the provision of electricity as energy is the determinant for the survival of a country (Oswaldo de Riverro, 2008), in addition to food and water. Thus, the provision of energy increases economic development activities and national resilience. The State ensures the availability of electrical energy in fulfilment and affordability. Availability is translated into two things: first, the fulfilment of the need for electricity so that all can enjoy; Second, affordability in the sense of low prices so that people can buy. In short, electricity must be there and cheap. Both of these are supported by policies and regulations set by the State through the government. The function of state regulators is several legal rules governing energy management. Settings on energy management can be seen as follows:

First, Law No. 30 of 2007 on Energy (Energy Law). In the Energy Law, in consideration of mentioning that energy resources are natural wealth controlled by the state and used for the greatest prosperity of the people. In addition, it is also emphasized that energy has an essential role for economic activities and national resilience so that its management which includes the provision, utilization and business, is carried out in a fair, sustainable, rational, optimal and integrated manner. This Law also affirms the purpose of energy management (Pasal 3, 2007), one of which is the guarantee of the availability of domestic energy for the fulfilment of energy needs and the achievement of improving public access to realize prosperity and prosperity reasonably equitably. Second, Law No. 30 of 2009 on Electricity. The consideration mentioned that the provision of ElectricityElectricity is capital and technologically intensive. In line with the principle of regional autonomy and democratization, the role of local governments and communities in the provision of ElectricityElectricity needs to be improved. In the provisions of this Law, state control is also regulated (UU No. 30 Tahun 2009 Tentang Ketenagalistrikan, 2009) in the provision of ElectricityElectricity. Its implementation is carried out by the government and local government, accompanied by the authority of each government and local government.

Third, Government Regulation No. 14 of 2012 concerning Business Activities of Electricity Supply. As amended by Government Regulation (PP) Number 23 of 2014 concerning Changes to Government Regulation No. 14 of 2012 concerning Business Activities of Electricity Supply. This PP is the description of the Electricity Law which regulates the business of providing electricity which includes the generation, transmission and distribution of electric power. It also regulates the administrative requirements of the provision of electric power both in the public interest and for its interests. The function of state entrepreneurs is the state in a position as an entrepreneur in State-Owned Enterprises (BUMN). The existence of this BUMN is the implementation of the mandate of the 1945 NRI Constitution, wherein Article 33 paragraph (2) is "Branches of production that are important for the state and who control the people controlled by the state". Thus the existence of BUMN is in principle a form of state control to benefit the maximum prosperity of the people. BUMN are a form of state presence to ensure that the management of natural resources can bring prosperity to all people. In the electricity sector, the function of state entrepreneurs can be seen through the existence of the State Electricity Company

(PLN). PLN is an extension of the state in organizing the management of electricity sources for the benefit of the people. As a state-owned enterprise, PLN is not separated into two dimensions. According to Jones, BUMN have two dimensions, namely the public dimension and the dimension of business entities. The dimensions of public and business entities will be determined by the Ownership and supervision of the state (Aminuddin Ilmar, 2012, p. 80). Similarly, in the Tangier meeting, it was stated that the public dimension of BUMN consists of:

- a. Purposes that are oriented to the interests of the community or public purpose;
- b. Ownership by state or public Ownership; and
- c. Public supervision of public control

State ownership is intended to ensure that the management of electricity is really for the greatest prosperity of the people. Therefore, the people/public also have room to control the people. The function of state umpire is often interpreted as the function of supervision carried out by the state in ensuring that the policies that have been established can run following its objectives. In addition, each party involved in the policy can feel protected. In other words, the function of the umpire provides legal certainty for each party involved. The function of the umpire, according to Friedmann, is more about the side of protection in the competition between various forces and activities in society (FX. Joko Priyono, 2002). Furthermore, according to Friedmann, the function of the umpire where the state must have standards and institutions that ensure that the competition can take place healthily and honestly. Thus, each party (public and private economic sector) has equal and guaranteed opportunities in an existing control mechanism. In the efforts to provide electricity, the state, through the government, sets regulations that also serve as controls so that the management of electricity carried out by both the government through state-owned enterprises and the private sector can run following the state's general policy in the field of electricity.

B. The Role of the Private Sector in the Provision of Electricity

The need for electric power is increasing in line with increasing population growth. In this condition, the availability of electrical energy is limited. BUMN are considered unable to meet domestic electricity needs, resulting in the number of areas that have not been electrified. Electricity limitations expressed by the Ministry of Villages, Development of Disadvantaged Regions and Transmigration (Kemendes PDTT), as many as 13 thousand villages scattered in transmigration areas, borders, outermost and left behind parts in Indonesia have not enjoyed electricity. This figure comes from 82,192 villages that fall into the category of electrification and also mentioned that the electricity needs of each village are around 200 kilowatts (Eko Putro Sandjojo, 2018). It is also revealed that the availability of electricity significantly affects economic and social development. In contrast, producing electricity sufficiently depends heavily on financing it and ensuring its availability and safety.

Hendri Saparini, a member of the National Economic and Industrial Committee (KEIN), stated that every year additional electricity needs of Indonesian people from the household sector, industry, commercial and general businesses, about 5,000 MW, while the State Electricity Company (PLN) is only able to provide electricity supply of about 4,000 MW annually, meaning there is an electricity supply deficit of 1,000 MW per year. If there is no natural step, Indonesia will experience an electricity crisis in 2018. This lack of electricity supply makes parts of Indonesia often experience rotating power outages. This condition generally occurs outside java islands such as Sumatra and Kalimantan (<https://tirto.id/indonesia-krisis-listrik-1000-mw-pada-2018-b2X2> accessed on February 21, 2018). With the threat of this electricity crisis, through Law No. 30 of 2009 on Electricity, the private sector gets space to participate in electric power business as affirmed in Article 4 paragraph (2). More clearly, the contents of the article are as follows: "Private business entities, cooperatives, and non-governmental organizations can participate in the efforts to provide electricity."

His explanation mentioned that the participation of private business entities, cooperatives, and non-governmental organizations was carried out to strengthen the fulfilment of electricity needs. So that private involvement is only in business, but its mastery is in the hands of the state. Furthermore, Law No. 30 of 2009 on Electricity also regulates the types of businesses providing electric power. As stipulated in Article 9 and Article 10, namely:

Article 9

The business of providing electric power as referred to in Article 8 letter consists of:

- a. Efforts to provide electricity in the public interest; and
- b. Efforts to provide electricity for their benefit

Article 10:

- 1) The business of providing electric power for the public interest as referred to in Article 9 letter a covers the type of business:
 - a. power generation;
 - b. transmission of electric power;
 - c. distribution of electric power; and

d. sales of electric power.

Efforts to provide holistic energy for the public interest, as mentioned in paragraph (1), can be done in an integrated manner.

III. RESEARCH METHODS

This research is normative research using a statutory approach and a conceptual approach. The theory of State functions is elaborated into the elaboration of the implementation of the exploitation of electrical energy with various instruments of legislation by the State as a regulator. The conception of the Welfare State is the basis for thinking for the State to conduct business to ensure the availability of energy for the greatest prosperity of the people.

IV. RESEARCH RESULTS AND DISCUSSION

The Law No.30 of 2009 on Electricity, where the private sector is given space to play a role and participate in providing Electricity, procedures are regulated both administrative and technical in the implementation of business activities to provide Electricity. This is then regulated in Government Regulation of the Republic of Indonesia (PP) Number 14 of 2012 concerning Business Activities of Electricity Supply, as amended by PP No. 23 of 2014 concerning Changes to Government Regulation No. 14 of 2012 concerning Business Activities of Electricity Supply. And as a technical regulation regulated in the Regulation of the Minister of Energy and Mineral Resources of the Republic of Indonesia (Permen ESDM) Number 35 of 2013 concerning the Procedures for Licensing electricity Business. In the case of licensing, every business activity of providing electric power must first get permission from the Minister / Governor / Regent / Mayor. This is inseparable from the principle of regional autonomy embraced in the Electricity Law so that the granting of permits is based on the area of the activity plan, as stipulated by Article 10 pp No. 14 of 2012:

- 1) The business of providing electric power in the public interest is carried out after obtaining a business license to provide electricity.
- 2) Business license for the provision of electric power as referred to in paragraph (1) is granted by:
 - a. Minister for business entities that:
 - 1.It is a business area across provinces;
 - 2.Conducted by state-owned enterprises; and
 - 3.Sell electricity and rent the electric power grid to the holder of a business license to provide electric power whose permit is granted by the Minister.
 - b. Governors for business entities that:
 - 1.It's a business area across districts/cities; and
 - 2.Selling electric power and /or renting the electric power grid to the holder of a business license to provide electric power whose permit is granted by the governor
 - c. Regent/Mayor for business entities that:
 - 1.It's business area in the district/city; and
 - 2.Selling electricity and renting the electric power grid to business license holders providing electric power whose permits are granted by the regent/mayor.

As completeness of the permit, it must also meet the provisions regarding the requirements in the application for a business license for the provision of listrik power as stipulated in Article 6 paragraph (2) and (3) of Permen ESDM No. 35 of 2013 as follows:

Administrative requirements consist of:

- a. The identity of the applicant;
- b. Ratification as an Indonesian legal entity for state-owned legal entities, regionally owned enterprises, private business entities, and cooperatives;
- c. Endorsement as an Indonesian legal entity for self-help communities in the form of legal entities;
- d. Applicant profile;
- e. The principal number of the taxpayer; and
- f. Funding capabilities.

Technical requirements consist of:

- a. Feasibility study of electric power supply business;
- b. Installation location except for electric power sales efforts;
- c. Location permits from authorized agencies except for the sale of electric power;
- d. One-line diagram;
- e. The type and capacity of the business to be carried out;
- f. Development schedule;
- g. Operating schedule; and

Approval of the selling price of electricity or lease of the Electric Power Grid from the Minister, in the event, that the application for a Business License for The Provision of Electricity is submitted for the Power Generation Business, Electric Power Transmission Business, or Electric Power Distribution Business.

V. CONCLUSION

The provision of electricity by the state for the people has not been able to run optimally, resulting in many areas that do not enjoy electricity. This condition is the background to the opening of the way for private business entities to participate in business activities in the provision of electricity as stipulated in PP No. 14 of 2012 concerning Business Activities of Electricity Supply as amended through PP No. 23 of 2014 concerning Changes to Government Regulation No. 14 of 2012 concerning Business Activities of Electricity Supply. Private participation in the efforts to provide electricity is solely to strengthen the fulfilment of the electricity needs of the people by not excluding the function of state control as the embodiment of the right to control the state. Thus, all people can enjoy electrical energy to advance the welfare and social justice and the ideals of the nation and state of the Republic of Indonesia.

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