

3 October 2022

**PRESS STATEMENT  
REQUEST FOR BANK GUARANTEE BY SURUHANJAYA TENAGA**

The current scenario with Suruhanjaya Tenaga is noted as follows:

- 1 Many large electricity users have been approved as Public Distribution Licensees (Lesen Awam Pengagihan or LAP).
- 2 In the midst of the Covid19 pandemic, the Suruhanjaya Tenaga (ST), without any consultations unilaterally imposed the need for Bank Guarantee (BG) equivalent to 3 months of electricity usage.
- 3 We acknowledge that ST has the powers to impose such BG but the basis for the quantum of the BG has to be justified and reasonable.
- 4 Our immediate response to the ST was to seek clarifications on the sudden need for this BG, the rationale and the basis for the quantum demanded.
- 5 The BG is to cover the cost that may be incurred, if any, for the Tenaga Nasional Berhad (TNB) to step into the role of the Licensee (in the event the Licensee is not performing or surrenders the License).
- 6 It is noted that TNB is the sole provider of electricity and will have to take over the role of the defaulting Licensee.
- 7 In the takeover process, ONLY the consumer meters of the Licensee need to be changed to TNB meter and new supply contracts be signed with the respective retail consumers.
- 8 In most circumstances, the Licensee would have removed their consumer meters as ownership of the meters is with the Licensee. The need to incur the cost of switching the meters is therefore most unlikely.
- 9 The new meters to be installed by TNB (to replace the old meters) remains the property of TNB.
- 10 In such a circumstance the quantum of the BG should be merely the labour cost in the unlikely event of the need to remove the Licensee meter.

We wish to further elaborate that:

- 11 The Licensed Distributor have always to off-take electricity from the TNB Main Switch Board.
- 12 AFTER the off-take from the TNB Switch Board, all equipment and infrastructure belongs to the BUILDING OWNER. These equipment and infrastructure are NOT the properties of the Licensed Distributor and NOT TNB.

- 13 Any maintenance/repairs/replacement is the responsibility of and at the COST of the BUILDING OWNER and NOT the Original Licensed Distributor and also NOT TNB.
- 14 The Original Licensed Distributor nor TNB are not at liberty to enter upon the BUILDING Owner's Equipment and infrastructure to carry out any repairs/replacements.
- 15 TNB has full discretion not to supply unless the Building Owner makes good whatever repairs deem necessary by TNB as the succeeding electricity distributor.

- **A WIN-WIN SOLUTION**

- 16 We are amenable to provide BG as SURETY to cover monetary risk
- 17 The amount must be commensurate with the risk
- 18 Like insurance, it is futile to insure more than the risk as one cannot claim more than the loss incurred. No one should profit from an insurance policy.
- 19 The reality is that the Banks will likely require a deposit of equivalent amount of the BG which become idling funds and unnecessarily impact on working capital and injure the cashflow management
- 20 The proposed RM100,000 BG offered by us is already many times cover for any potential cost of the UNLIKELY event of TNB having to incur the cost of dismantling the OLD meters and installing TNB's own meters.
- 21 Our proposal is a WIN-WIN although in favour of ST as the BG is way above the risk to be covered.
- 22 It is a commercially sensible solution that do not unnecessary burden the Licensee in depositing idling monies and negatively impact on working capital and cashflow.

We further seek clarification on this aspect of how many cases had been encountered by ST where Licensees failed to remove the consumers' meters and the costs incurred by TNB to remove such consumer meters and equipment according to Electricity Supply Application Handbook (ESAH) by TNB so that there is continuation of the electricity supply to the consumers.

Therefore, we are of the firm view that there must be correlation between the actual costs to be incurred to comply with the ESAH for the direct cost of removing the abandoned (if any) consumers' meters in order for the TNB meters to be installed (excluding those equipment and infrastructure that belong to the Building Owner) upon termination of license and the quantum of the security to be collected.

We feel that there should not be an arbitrary quantum imposed for 'security' in the form of a Bank Guarantee based on consumption.

Most Banks will require the applicant for BG to deposit monies as idling fixed deposits which will impact on the liquidity and cash flow of the business, especially when the BG quantum is in the Millions of Ringgit. Furthermore, the security is kept indefinitely which is an additional burden to the Licensees.

The core principle must be the correlation between the security to be imposed and the costs that may be incurred to comply with ESAH.

We are of the opinion that security should not be based on arbitrary amount to be imposed on the Licensees as it would be totally inequitable and cause financial burden on Licensees which will be passed on to the consumers.

The quantum of security should be based on fair and justifiable amount on cases studies. It should be assessed based on the actual costs, in the event TNB has to remove the old Consumer Meters and any antecedent cost (excluding those equipment and infrastructure belonging to the Building Owner), according to ESAH, if any, to satisfy the requirements of ESAH. We are seeking a degree of specificity to identify costs to be covered.

We are in agreement that the surrendering Licensees should not be discharged from their contractual obligation but tendering of the security should be based on the reasonable costs that will be incurred by TNB on the Licensee's failure to do needful. The blanket surety equivalent to electricity consumption has no correlation to actual possible cost in the worst of circumstances.

In order to simplify the quantum, we had proposed a Standard RM100,000 BG which far exceeds any cost of dismantling the Licensee meters in any conceivable worst case scenario. Our proposal for a RM100,000 Bank Guarantee is already a very generous and overwhelming amount and was proposed for ease of management and as win-win solution to this debacle.

We ask for fair and equitable treatment adequate to cover the actual actuarial risk. In the meantime, we urge the ST to hold in abeyance the demand for the BG until the said matter has been resolved mutually.

We have also written to the Ministry of Energy and Natural Resources (Kementerian Tenaga dan Sumber Asli – KeTSA) in October 2021 requesting for an appointment to convene a dialogue to object against same, but there has been no reply to date.

Thank you.

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*This press statement is issued on behalf of the following organisations:*

- *Building Management Association of Malaysia (BMAM)*
- *Malaysian REIT Managers Association (MRMA)*
- *Persatuan Pengurusan Kompleks Malaysia (PPK) or Malaysia Shopping Malls Association*