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Perbadanan Bekalan Air Pulau Pinang Sdn Bhd
(475961-X)
Memenuhi segala keperluan bekalan air anda
Meeting all your water supply needs

24th November 2017

PRESS STATEMENT
by Dato' Ir. Jaseni Maidinsa,
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Perbadanan Bekalan Air Pulau Pinang Sdn Bhd (PBAPP).

THE FEDERAL GOVERNMENT "DETERMINES" WATER TARIFF REVIEWS AND CHARGES IN MALAYSIA BY LAW

- **The Water Services Industry Act 2006 (Act 655) requires water supply operators to apply to SPAN for reviews of water tariffs and water supply service charges.**

- **The SPAN Act 2006 (Act 654) empowers SPAN to "advise" the KeTTHA Minister on tariff review applications.**

- **The KeTTHA Minister is responsible for making regulations to "prescribe the level of rates for water supply services".**

PENANG, Friday (24/11/2017): The Federal Government is the authority that approves water tariffs and charges in Malaysia, in accordance to the Water Services Industry Act 2006 (WSIA 2006 – Act 655).

As such, it may be said that the Federal Government "determines" the tariffs and charges for water supply services in Malaysia.

On 22/11/2017, various print and electronic media published reports quoting Datuk Seri Dr. Maximus Ongkili, the Minister of Energy, Green Technology & Water (KeTTHA), as saying that "the federal government does not determine the water tariffs of any states".

These reports are misleading.

Excerpts of Federal Laws

The following are excerpts from the WSIA 2006, the National Water Services Commission Act 2006 (SPAN Act 2006 – Act 654) and the SPAN website:

- "Regulations regarding rates, charges and deposits:
  The (KeTTHA) Minister may, on recommendation of the Commission (SPAN), make regulations to prescribe the level of rates to be charged for the water supply services and sewerage services."

  Part VI, Section 84.1, "Rates, Charges & Deposits", WSIA 2006 (Please see Appendix A)

- "The Commission (SPAN) shall have all the functions imposed on it under the water supply and sewerage services laws and shall also have the following functions:

  (e) to advise the (KeTTHA) Minister on a fair and efficient mechanism for the determination of tariffs that is fair to both consumers and licensees and to implement tariffs that have been established through appropriate mechanisms and tools."

  Part III, Section 15, "Functions and Powers of the Commission", SPAN Act 2006 (Please see Appendix B)

- "Suruhanjaya Perkhidmatan Air Negara Act 2006 (Act 654) outlines the following provisions in relation to the Commission's functions:

  - To advise the Minister on a fair and efficient mechanism for the determination of tariffs that is fair to both consumers and licensees and to implement tariffs that have been established through appropriate mechanisms and tools."

  www.span.gov.my/index.php/about-us/functions

Meanwhile, the following link to SPAN's website:
www.span.gov.my/index.php/en/law/regulations lists national regulations in relation to "rates of water supply services" made by the Minister in 2015 for Penang, Johor, Labuan, Melaka and Negri Sembilan.

These regulations, which have been gazetted as amendments to national laws, may only be made by the Minister. Please note that state governments are not empowered to make national regulations.

The Case of PBAPP's WCS Application in 2017

On 28/4/2017, PBAPP made its first submission to SPAN to review Penang's Water Conservation Surcharge (WCS) to RM1.00 per 1,000 litres, only for domestic consumption above 35,000 litres per month.

Since then, PBAPP has made 5 other submissions, upon request from SPAN, with regard to the proposed WCS review that is aimed at reducing Penang's high per capita domestic consumption.

The latest submission to SPAN was dated 20/11/2017, and PBAPP is awaiting an official response from SPAN on the status of the application and the recommendation to the Minister.

If the gazetting of water tariffs and charges as national regulations are not required, PBAPP would not have to wait for a response from SPAN or for the Minister to make a new regulation.

This case clearly proves the Federal Government is the authority that "determines" water tariffs and water supply service charges in every state in Malaysia, including Penang.

PBAPP cannot legally "determine" the value of the WCS or implement a water tariff review in Penang without Federal Government approval.

Thank You.

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Appendix A: Excerpt from Water Services Industry Act 2006 (Act 655)

PART VI

RATES, CHARGES AND DEPOSITS

Regulations regarding rates, charges and deposits

84. (1) The Minister may, on the recommendation of the Commission, make regulations to prescribe the level of rates to be charged for the water supply services and sewerage services.

(2) Without prejudice to the generality of subsection (1), regulations may be made—

(a) to prescribe the rates for water supply services and sewerage services including bulk water supply;

(b) to prescribe the different levels of rates for water supply services and sewerage services based on category of users, consumption, type of use and geographical location or in such other manner as the Commission deems appropriate;

(c) to prescribe the connection, reconnection or any other charges, and deposits, relating to the water supply services and sewerage services;

(d) to provide for the publication or disclosure of rates for water supply services and sewerage services; or

(e) to prescribe the billing and charging rates through meters and sub-meters for buildings.

Appendix B: Excerpt from SPAN Act 2006 (Act 654)

PART III

FUNCTIONS AND POWERS OF THE COMMISSION

Functions of the Commission

15. The Commission shall have all the functions imposed on it under the water supply and sewerage services laws and shall also have the following functions:

(a) to advise the Minister on all matters in relation to the national policy objectives of the water supply and sewerage services laws and to implement and promote the national policy objectives;

(b) to implement and enforce the water supply and sewerage services laws and to consider and recommend reforms to the water supply and sewerage services laws;

(c) to ensure the productivity of the water supply services and sewerage services industry and the monitoring of operator compliance with stipulated service standards, contractual obligations and relevant laws and guidelines;

(d) to increase concerted efforts towards improving the operational efficiency of the industry and in particular the reduction of non-revenue water through short-term, medium-term and long-term programmes;

(e) to advise the Minister on a fair and efficient mechanism for the determination of tariffs that is fair to both consumers and licensees and to implement tariffs that have been established through appropriate mechanism and tools;

(f) to ensure the national development goals pertaining to coverage, supply and access to water supply services and sewerage services are achieved;

(g) to ensure long-term sustainability of quality of water and sewerage services through continued capital works development;