Suruhanjaya Tenaga

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Gas dispute over take-or-pay arrangement

by JOSE BARROCK

KiniBiz

A DISPUTE seems to be brewing between Gas Malaysia Bhd and large users such as the Malaysian Rubber Gloves Manufacturers Association (Margma), Federation of Malaysian Manufacturers (FMM) and the Malaysian Iron and Steel Industry Federation (Misif) over a new gas supply agreement (GSA), which is slated to be signed by April 15.

Chief on the list of grouses is Gas Malaysia's insistence on the implementation of the take or pay mechanism — where users will have to buy a stipulated amount of gas or pay for it even if the gas is not used. This prevents a user from lowering their orders according to production. In the event of *force majeure* (a legal term implying such things as acts of God which disrupt supply), gas buyers would still have to pay up.

Margma president Lim Kwee Shyan told *KiniBiz*: "We have had many rounds of discussions, but a few key issues have not been sorted out...we are giving this one final shot, if it (the talks) doesn't work, we will not sign the agreement."

The deadline to sign the agreement has been delayed to April 15, after two previous postponements.

When questioned what options Margma had, he said it would have to be discussed with the members before he said anything.

Among the larger rubber glove players are Top Glove Corp Bhd, Supermax Corp Bhd, Kossan Rubber Industries Bhd and Hartalega Holdings Bhd which are the largest glove manufacturers in the world.

Lim said the take-or-pay mechanism would be all right if the gas users are allowed to reduce their orders for gas over a shorter time frame such as three months instead of a year.

Lim explained that with the current mechanism, Gas Malaysia prorated the orders for a year. The Margma members are more comfortable with a one-month to three-month time frame to plan their business, as opposed to a year.

He added that the defence of *force majeure* now only protects the seller, ie Gas Malaysia, while the buyers — in this case Margma members — are not protected.

"It shouldn't be that if your factory gets struck by lightning and burns down you still have to pay for gas," he said.

Misif's president Soh Thian Lai was not available for comment, while Azlan Abdullah, the deputy president, declined to comment when contacted.

A steel player, meanwhile, told *KiniBiz* that the directives for better planning on the part of the users was a result of Petroliam Nasional Bhd (Petronas) commencing the import of liquefied natural gas sometime in the second-quarter of this year from the RM2 billion Lekas regassification terminal in Malacca.

"It is to ensure that there will be sufficient gas for all, but our question is Gas Malaysia should not just pass on all the conditions of their supplies. Being a monopolistic supplier they should bear some risks, otherwise, their margins should be reviewed.

"Also wouldn't it better if Petronas just managed their large clients such as the power stations, as their variation in usage can have huge impact on the total off-take, instead of managing many small players," he asked.

FMM in its members' advisory said that it had negotiated on March 11 with Gas Malaysia and the Energy Commission officials sitting in to chair the meeting.

"Gas Malaysia wrote to FMM on March 12 and 15, to make some concessions in response to FMM's request for gradual implementation of the new conditions and for the limits and penalties to be less punitive," FMM's advisory said.

The key measures, such as the take or pay mechanism, were not touched on but other not so prominent issues were revised.

In its advisory, FMM said: "Based on the revised terms which have been duly negotiated with Gas Malaysia and arbitrated by the Energy Commission, FMM would advise members to consider executing the GSA before April 15, 2013."

While this seemed positive for Gas Malaysia, an official from FMM who could not be quoted said: "It is not what we want actually, this is what Gas Malaysia is prepared to concede.

"It is up to the individual members of FMM...it's for them to decide."

FMM officials responsible for the advisory were not in the office, so an official quote was not available.

Gas Malaysia has yet to reply to questions sent by *KiniBiz.*

According to its website, Gas Malaysia is 41%-controlled by MMC-Shapadu Holdings Sdn Bhd, 19% by Tokyo Gas-Mitsui & Co Holdings Sdn Bhd, oil major Petronas with a 14% stake and the public at large with 26% equity interest. However, Petronas has a golden share in Gas Malaysia.

MMC-Shapadu is 76%-controlled by MMC Corp Bhd, the flagship company of tycoon Tan Sri Syed Mokhtar Al-Bukhary, while the remainder equity is held by the family of the late Sharani Abdullah, a businessman who passed away a few years ago.