



Regional Economic Development Strategy: Increasing Local Generated Domestic Revenue of the Regional-Owned Enterprises in the Oil and Gas Sector

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Abstract: *This paper illustrates how to develop a local development strategy in the establishment regulation of regional enterprises in the oil and gas sector in Bojonegoro District, Indonesia. This paper focuses on the locally generated domestic revenue in Bojonegoro, which have believed to be one of the most important strategies in their economic development. The oil and gas sector has contributed to almost 50% of the regional economic growth in Bojonegoro. However, the community in the region has not yet received an optimal benefit from the contribution as this sector only contributes 4.6% for its local employment in 2018 in comparison with the agrarian sector which contributes 36% for its local employees. The legal research conducted in this paper is juridical normative research by emphasising the establishment arrangement of the oil and gas regional enterprises to increase the locally generated domestic revenue from the sector. According to the Ministry Regulation of Ministry of Energy and Mineral Resources (MoEMR) Republica of Indonesia No. 1, 2008 on Guidelines for the Exploitation of Petroleum Mining in Mature Field stated that any Local (Village) Enterprise Unit (“KUD”) or Regional Local Enterprises (“BUMD”).*

Keywords: *strategy; locally generated domestic revenue; oil and gas; BUMD; KUD.*

I. INTRODUCTION

Bojonegoro is located on the west part of the East Java Province in the border with the Region of Blora that located in the Central Java Province. Geographically, Bojonegoro has located on coordinate 6° 59’

to 7° 37’ South Latitude and 112° 25’ to 112° 09’ East¹ Longitude, ±110kms away from the capital city of the province. The large of the region is 230,706 acres and administratively is bordering with Tuban District on the north, Lamongan District on the east, the District of

¹ Bappeda Provinsi Jawa Timur, *Kabupaten Bojonegoro*, <<http://bappeda.jatimprov.go.id/bappeda/wp->

<content/uploads/potensi-kab-kota-2013/kab-bojonegoro-2013.pdf>> accessed on 1 January 2020.

Madiun, Nganjuk, and Jombang on the south, the District of Ngawi and Blora (Central Java).²

Before 2011, Bojonegoro consisted of 27 sub-districts, and in 2011³ a new sub-district was developed, called Gayam, as a result of a division in Bojonegoro. Gayam consists of 12 villages that were part of the 2 sub-districts, Kalitidu and Ngasem. This division was determined based on the Regional Regulation No. 22, 2011 on the Establishment of Gayam Sub-District in Bojonegoro. Currently, Bojonegoro has 28 sub-districts with 419 villages and 11 village office.⁴ Table I-1 shows the area on each sub-district in Bojonegoro.

Table 1. Sub-Districts in Bojonegoro

No	Sub-Districts	Area	
		Ha	%
1	Margomulyo	13.968	6,05
2	Ngarho	7.148	3,1
3	Tambakrejo	20.952	9,08
4	Ngambon	4.865	2,11
5	Sekar	13.024	5,65
6	Bubulan	8.473	3,67
7	Gondang	10.701	4,64
8	Temayang	12.467	5,4
9	Sugihwaras	8.715	3,78
10	Kedungadem	14.515	6,29
11	Kepohbaru	7.964	3,45
12	Baureno	6.637	2,88
13	Kanor	5.978	2,59
14	Sumberejo	7.658	3,32
15	Balen	6.052	2,62
16	Sukosewu	4.748	2,06
17	Kapas	4.638	2,01
18	Bojonegoro	2.571	1,11
19	Trucuk	3.671	1,59
20	Dander	11.836	5,13
21	Ngasem	14.721	6,38
22	Kalitidu	6.595	2,86
23	Malo	6.541	2,84
24	Purwosari	6.232	2,7
25	Padangan	4.200	1,82
26	Kasiman	5.180	2,25
27	Kadewan	5.651	2,45
28	Gayam	5.005	2,16
	total	230.706	100

Sources: Regional Regulation No. 22, 2011 on the Establishment of Sub-districts in Bojonegoro; Regional Regulation No. 26, 2011 on Neighbourhood (RT/RW) in Bojonegoro

Bojonegoro, being studied in this paper, is one of the oil and gas producers region in Indonesia. The oil and gas and economic potential in Bojonegoro can contribute to the economic growth in Bojonegoro. This can be done by improving the investment activities either by the regional government or private investors. In 2017, the government enacted the Regent Regulation No. 30, 2017 on Guidelines for the Development of Mining and Miners Groups in Mature Fields in Bojonegoro. It states that the activities in the mature field should have done by the BUMD PT. Bojonegoro Bangun Sarana (PT.BBS) and omits the right of the local (village) unit enterprise (“KUD”) for food sources. Having these guidelines implemented, the regent recommended PT. BBS to run the mature field activities. However, PT. BBS has not approved the MoEMR.

This has been a legal issue in Bojonegoro since this KUD was the one who had run the mature fields until then and was the largest contributor to Pertamina. Surprisingly, PT BBS has reported a loss in the mature field activities.

An investment is economically feasible when it brings positive impacts on regional economic development in which a project is located. This impact can be an increase in the locally generated domestic revenue or an increase in the employment rate in that region. In a bigger economic perspective, an investment is economically feasible when it contributes to the Gross Domestic Product (GDP).

BUMD is a regional enterprise established by the regional government in which most/ all of the shares are owned by

² Cipta Karya, *Laporan Akhir Sippa Online: Review RPIJM Kabupaten Bojonegoro 2017-2021*, page, 2
<http://sippa.ciptakarya.pu.go.id/sippa_online/ws_file/dokumen/rpi2jm/DOCRPIJM_1503556206002__BAB_2_PROFIL_KABUPATEN.pdf> accessed on 1 January 2020.

³ Dwi Retno Ariyanti, ‘Pengaruh Sektor Migas Terhadap Pengembangan Wilayah Bojonegoro’, (2013) 2(2) *Jurnal Teknik POMITS*, Page C-100, <<http://ejournal.its.ac.id/index.php/teknik/article/view/4343/1040>>

⁴ Bappeda Provinsi Jawa Timur, above n 1.

the regional government (Regional Development Law No. 23, 2014)⁵. There are two classifications of BUMD, according to the purpose of the BUMD itself, they are BUMD that focuses on public services and BUMD to increase the regional revenue. The purpose of the BUMD establishment is to develop the region through community services, public services, and increasing the revenue.

The definition above indicates that BUMD puts efforts into business activities related to investment and profitability by selling goods/services. BUMD is a regional business investment activity to drive and cultivate regional economy, meaning, BUMD is part of economic activity to support the regional finance and provide services to the community in its related service area.

The profit from BUMD activities is other revenue sources for PAD (locally generated domestic revenue), which have shared with the regional government in a certain percentage. Therefore, optimising the role and contribution of BUMD can support the regional government in facing the challenges in collecting PAD.

This background has led the researcher to study the case in the oil and gas sector that is maintained by the BUMD in Bojonegoro by looking at the establishment arrangement of the BUMD. Therefore, to improve regional development, the role of BUMD becomes significant as one of the central players in the area where private investors do not take part and as a public services provider. The BUMD has taken the role to balance the market power and to get involved in cultivating the small and medium scale business activities. As mentioned earlier, BUMD has a significant role in contributing to regional revenue (PAD).

II. LEGAL MATERIALS AND METHODS

This paper used normative juridical research as the main legal research method. It conducted by emphasising the establishment arrangement of the oil and gas

regional-enterprises to increase the locally generated domestic revenue from the sector. This paper also lies on several Indonesia legal instruments and Bojonegoro regional regulations related to gas and oil mining business.

III. RESULT AND DISCUSSION

Formulating regional economic development strategy by increasing the locally generated domestic revenue in the establishment arrangement of BUMD in the oil and gas sector

The general objective of economic development is to increase the real income in a fairly and equally distributed in its income and business activities. By knowing the goal and objective of the development, as well as the weaknesses and strengths of a district, will direct the strategy better, and this strategy will eventually guide the regional government in conducting business activities in their region.

Every region has a national policy to increase control of their investment activities in their region, improve the residents' role in the economic stability and welfare, and improve its local employment rate and improve their livelihood. A perspective and involvement from regional that applies the national policy are important for the national economic development.

At the national level, the central government can support the regional government by creating business space and economy, either both nationally and or regionally, to give all the economic players the same opportunities in realising their potential. In Indonesia, the role of the regional government in implementing the regional economic development strategy is important and influential, whereas the central government will have a role in creating business space for regional economic activities. This will drive the economic activities as mentioned earlier. The regional government needs to identify the locations in the region that potentially become the centre of economic activities. The regional

⁵ Article 1, verse 40 of District Government Law No. 23, 2014.

government can identify this strategic and fast-growing location by looking at agglomeration activities that happen in the area, such as farming, agricultural activities, animal husbandry, fishery activities, cluster industry, and mining activities. This location can also be a location that has developed for its natural resources.

According to the Social Macroeconomic Indicator in Bojonegoro in 2018 and the RPJMD, regional tax income, regional retribution, regional resources management, and other allowable regional income sources are contributing to the increase of the real income of locally generated domestic revenue (PAD) in Bojonegoro. The yearly contribution from 2011 to 2015 from these sources was 14.86%, 27.27%, 3.67%, and 54.19%, respectively. The income from the regional resources management was not significant comparing to the other regional PAD sources, and the other allowable regional income sources had the highest contribution and significantly increased from IDR 32,346 billion in 2011 to IDR101,391 billion in 2015.

The Government Regulation No. 54, 2017 on Regional-Owned Enterprises, Article 9, Verse 5 stated that

“The regional needs based on the needs being mentioned in the verse 2, and the feasibility study of BUMD business activities in verse 3, are part of the RPJMD policy”

The following discuss the key features in the oil and gas activities by the regional enterprises, the Health Safety & Environment and the Participating Interest (PI).

The Health Safety & Environment Concerns on Old Oil Fields Activities by Regional Enterprises

Bojonegoro has a quite big potential in oil and gas production. Bojonegoro can have 600 million barrels to 1.4 billion barrels on their oil reserves and 1.7tcf to 2tcf on its gas reserves.⁶ This number is the largest estimation for Cepu Blok in Indonesia, running by Exxon Mobile. Another operator in that block, for the Sukawati field, is JOBPPEJ (Petrochina-Pertamina), with an average production of 3 mmbbl/year.

There is also a Tiung Biru field that is still under exploration activities by Pertamina EP. This field is a gas field, which according to the study, this gas field can contribute to the additional gas production for 250 tcf/day. Hence, having these resources, it is believed that the oil and gas sector can contribute 20% to the national production.⁷ Cepu field and Sukawati field have administratively located in the Ngasem, Sadewan, and Gayam sub-districts. Apart from oil mining activities that are maintained by big companies, there are also traditional mining activities by the community in the mature oil fields (wells) using simple tools and equipment. These traditional mining activities should also comply with the Health, Safety, and Environment (HSE) standards of a big company. The issue with the traditional mining activities by local communities is often concerning the HSE. Therefore, for any regional enterprises who wish to maintain the mature oil wells should comply with the MoEMR Regulation No.1/2008. One of the requirements of getting approval for running the activities in the mature oil fields is to submit the work program on health safety and environment activities during the operation. It is suggested to have collaboration with existing oil and gas companies to maintain the HSE activities.

The local communities maintained the mature oil wells in Wonocolo with permission granted by the regent of Bojonegoro, which then became the

⁶ Danang Wahyuhono dkk, ‘Kontrol Pemuda Terhadap Tata Kelola Migas Dan Implikasinya Pada Ketahanan Wilayah Di Kawasan Migas Blok Cepu Kabupaten Bojonegoro’ (2019) 25(1) *Jurnal Ketahanan Nasional* Volume, 2, <<http://repository.ums.ac.id/bitstream/handle/123456789/29052/C.%2011.pdf?sequence=1>>.

⁷ Dwi Ratna Putri Purnamaningsih, ‘Pengaruh Kawasan Migas Terhadap Pola Dan Struktur Ruang Perkotaan Kecamatan Kapas Kabupaten Bojonegoro’ (2017) 13 (1) *Jurnal Pembangunan Wilayah & Kota*, Biro Penerbit Planologi Undip, Volume: 27-43, Maret 2017, 29, <<https://ejournal.undip.ac.id/index.php/pwk/article/viewFile/14968/11353>>.

Directorate General of Oil and Gas Authority in 1987. Currently, these mature oil fields, are owned by Pertamina EP Asset 4, Cepu Field. Mature fields are considered profitable, therefore, many private investors are attracted to come. They invested IDR1.5 billion for a new well.⁸ There are 638 oil wells registered in this field, and there were 2,500 miners for those wells. The residents who mine the oil are obliged to deliver their products to the Pertamina EP through the KUD (food sources KUD). Pertamina EP does not spend any expenses on maintaining these wells. The local communities maintain the wells on their own, in groups. In one group usually consists of 20 to 30 people, and they get paid once a week on Thursday.⁹

It was mentioned earlier that mature fields are allowed to be maintained by KUD.¹⁰ Mature fields are those fields or wells that were drilled before 1970 and were produced and are located outside of the contract area (WK). These oil wells are no longer being operated by the SKK Migas operator, as for them, these wells are no longer economically viable, yet to be still profitable for the BUMD and KUD if they operate them.¹¹

On 12 September 2008, KUD was established based on MR No. 1, 2008, and in 2009 the KUD was granted permission by the government to operate and produce the oil from the mature oil wells in the Pertamina EP contract area. In 2015, the KUD requested for an extension for their activities, but the regent of Bojonegoro did not grant the request.¹²

Regent Regulation No.30, 2017 on the Guidelines for the Development of Mining and Miners Groups in Mature Oil Wells in Bojonegoro, was enacted in 2017. It states

that the operation for the mature oil wells has conducted by the BUMD PT. BBS (this was mentioned earlier in the introduction).

PT BBS is the miners' coordinator for the mature oil wells that have delivered to PT Pertamina. PT BBS concerns on health, safety, security, and environment (HSSE). They protect and rehabilitate the environment and insurance for their miners and the community shares. PT BBS operates 494 mature oil wells from three different fields, Wonocolo, Dandangilo, and Ngrayong Field. During the waiting period to be granted for 5 years' permission from the MoEMR, PT BBS has an interim contract for a year. BUMD keeps maintaining its business activities in the oil and gas sector to improve the shares dividend for the regional government (Bojonegoro).

Participating Interest 10% of BUMDs in the existing oil and gas projects

The Government enacted a regulation that regulates the participation of BUMDs in the upstream oil and gas projects that have located in their jurisdiction. This regulation is to involve BUMDs in oil and gas project by having 10% Participating Interest (PI).¹³ This implementation has regulated in MoEMR Regulation No. 37/2016. This PI has expected to maximise the benefits of the project to the local community (in this case is Bojonegoro). For example, the Cepu Block partnership is 45% owned by ExxonMobil, 45% owned by Pertamina EP Cepu, and 10% owned by BKS which consists of Petrogas Jatim Utama (PJU or BUMD East Java), Sarana Patra Hulu Cepu (SPHC or BUMD Central Java) and PT ADS (BUMD Bojonegoro). The 10% Participating Interest (PI) is paid to the BUMDs and not to the regional government.

⁸ Tri Wacrono Adi, 2018, 'Potensi Pengelolaan Sumur Minyak Tua Wonocolo Menjadi Objek Wisata Alam' (online), <jurnal.acamigas.ac.id/index.php/jesdm/article/download/91/85> Accessed on 27 October 2018, Thesis.

⁹ Interview with Sutirino, one of the KUD staff (Friday, 16 December 2018). Thesis.

¹⁰ Ministry Regulation of MoEMR No. 1, 2008 on the Guidelines of the Oil and Gas Mining Activities in the Mature Fields.

¹¹ Interview with Sutirino, one of the KUD staff (Friday, 16 December 2018). Thesis.

¹² Ibid.

¹³ Risman Sarifudin, 'Kewenangan Pemerintah Daerah Pengelolaan Partisipasi Interest (PI) Pada Sektor Migas', (2019) 5(2, October) *Jurnal Sosio Sains*, 128-139, 134, <http://journal.ildikti9.id/sosiosains/article/view/304/210>.

Before this regulation took effect, there was an issue with the implementation of the PI by BUMDs. Since they did not have sufficient capital to invest in the existing project in their jurisdiction, they involved private enterprises to invest. The idea of maximising the benefits for the local community was not achieved, as the returns on the investment went to the private enterprises (Haikal, 2015)¹⁴.

PT. Asri Dharma Sejahtera (ADS), is one of the BUMD in Bojonegoro that has received participating interest (PI) from Cepu Block, in-kind oil and cost recovery from Banyu Urip Field. This has contributed to their revenue for USD120million (equivalent to IDR1.7trillion).¹⁵ PT ADS received these shares as they invested and took part in the operating expenditures in Cepu Block. The payment mechanism is not cash but in kind, meaning the oil shares of the government has bought by the Pertamina. This mechanism applies to other interest participants, such as Pertamina EP Cepu and Coordination Joint Body (BKS).

PT ADS then receives the payment monthly from the sales. However, this income cannot be directly deposited into the regional cash account since they have to pay to PT Surya Energy Raya (SER) as the funding support for Cepu Block (for the ADS investment from 2009 to 2015). They have a 75:25, scheme; 75% for PT SER, and 25% for PT ADS. According to their agreement, PT ADS must pay back the investment for IDR1.363 trillion. Only after they pay back this amount, PT ADS will receive their shares.

The shares dividend of the BUMD Bojonegoro, PT BBS, has increased to IDR350 million in 2019 from IDR120 million in 2018, with the participating interest from the regional government was IDR11.5billion. This BUMD who are involved in the oil and gas sector has paid the

shares dividend for their shareholders since 2009. However, in 2016, the BUMD was no longer paid their shares to the regional government since PT BBS was in loss and only became profitable again in 2017.

a. Legal Basis for the Establishment of Regional-Owned Enterprises in the Petroleum Mining Sector in Bojonegoro Regency

BUMD plays an essential role in regional economic development, which has become one of the significant contributions to the PAD apart from regional tax and regional retribution. Therefore, BUMD should be maintained and operated professionally by applying the Principle of Good Corporate Government (GCG), which includes transparency, accountability, responsibility, independence, and fairness. There are five BUMDs in Bojonegoro that apply the GCG principle; they are PT ADS, PT BBS, PT. Griya Dharma Kusuma (GDK), PD Air Minum (PDAM), and PD. Bank Perkreditan Rakyat (BPR).

Having a better construction is related to the BUMD establishment has made the establishment arrangement clearer, which is stipulated in the Government Regulation No. 54, 2017 on BUMD. This construction can be legal construction, objectives, capital allowance, and management, which as, a whole will impact the performance of the BUMD.¹⁶

According to the Ministry Regulation of MoEMR No. 1, 2008 Article 2, Verse 2:

“in the case of a contractor does not operate and produce oil from mature oil wells as mentioned in the verse 1, KUD or BUMD can operate and produce the oil upon approval from the Minister”

To enable the coordination with the contractor, the KUD or BUMD must submit

¹⁴ Haikal, 2015. *Larangan BUMD Gandeng Swasta Dalam Garap Eksplorasi Migas*. [online] Jpip.or.id. <<http://www.jpip.or.id/artikelview-419.html>> accessed 9 April 2020.

¹⁵ Nugroho, *BUMD Bojonegoro Terima Pendapatan PI Blok Cepu Rp1,7 Triliun* <[https://www.suarabanyuurip.com/index.php?kabar/baca/bumd-bojonegoro-terima-pendapatan-pi-](https://www.suarabanyuurip.com/index.php?kabar/baca/bumd-bojonegoro-terima-pendapatan-pi-blok-cepu-rp1-7-triliun)

[blok-cepu-rp1-7-triliun](http://www.suarabanyuurip.com/index.php?kabar/baca/bumd-bojonegoro-terima-pendapatan-pi-blok-cepu-rp1-7-triliun)> accessed on 20 December 2019.

¹⁶ Donal Devi Amdanata dkk, ‘Implementasi Asas Transparansi Good Corporate Governance Pada BUMD Di Indonesia’, (2019) 7 *Jurnal Inovasi Bisnis*, 154-161, 158 <<http://ejournal.polbeng.ac.id/index.php/IBP/article/view/1172>>.

their request for approval to the Minister c.q Directorate General and Implementing Body, attaching their administrative and technical documents mentioned in the MR of MoEMR No. 1, 2008 Article 3, Verse 3 and 4; they are¹⁷:

- a. Deed of the establishment of KUD or BUMD and its amendment, certified by the authorised institution
- b. Company registration certificate
- c. Tax registry number (NPWP)
- d. Certificate of Domicile
- e. Recommendation letter from the Regency / City Government and approved by the local Provincial Government
- f. A legalised written statement (*materai*) stating the ability to meet the provisions of the legislation

The technical document consists of:

- a. Geological map of the requested mature oil fields/wells
- b. The number of the well requested
- c. Production plan and return service fees proposal
- d. Proposal on work safety and health program as well as environmental management
- e. Technology is used for producing the oil
- f. Financial ability

The related contractor will evaluate this request,¹⁸ and if the result of the evaluation fulfilled all the requirements, the contractor will send the request to be assessed by the Implementing Body. If the request does not fulfil the requirement, the contractor returns the application request to the KUD or BUMD and reports it to the Implementing Body.

Upon the assessment by the Implementing Body (IB), the IB sends the request to the Minister c.q. the Directorate General of the Oil and gas to get an approval, considering its project technical and

economic. If necessary, Minister c.q. the Directorate General can also ask for clarification on this request to the IB, Contractor, and/or KUD or BUMD.

If the request from KUD is approved, the Directorate General, on behalf of the Minister, will grant approval to the contractor through IB. On the other hand, if it is not approved, the Directorate General on behalf of the Minister must return the document and request to the contractor through IB along with their refusal reasons.

The contract period for this approval for KUD or BUMD is 5 years, and they can request for extension 6 months before the expiry dates of the contract.¹⁹ There is some requirement, to disclose to get an extension, they are:

- a. The number and location of the mature oil wells that will be produced
- b. Service fees for producing the oil
- c. The term, extension, and termination of the agreement
- d. Mechanical equipment and technology being used
- e. Employment/human resources
- f. Quality and specification of the oil
- g. Delivery point of the oil
- h. Work safety, health, and the environmental aspect
- i. Dispute resolution

This production agreement must have acknowledged by the IB, and the operational production is regulated in Ministry Regulation of MoEMR No. 1, 2008, on the Guidelines for the Exploitation of Petroleum Mining in Old Oil Well Article 9, Verse 1 and 2. It has stated that the production activities by KUD or BUMD can only have done for the mature oil fields/wells that have been agreed by the contractor and KUD or BUMD in the production agreement, and the KUD or BUMD can use the mechanical equipment or technology approved by the contractor.

Meanwhile for the service fees for producing the oil are regulated in Article 11

¹⁷ Ministry Regulation of MoEMR No. 1, 2008, on the Guidelines for the Exploitation of Petroleum Mining in Mature Article 3, Verse 2 and 4.

¹⁸ Ministry Regulation of MoEMR No. 1, 2008, on the Guidelines for the Exploitation of Petroleum Mining in Mature Article 4, Verse 1.

¹⁹ Ministry Regulation of MoEMR No. 1, 2008, on the Guidelines for the Exploitation of Petroleum Mining in Mature Fields Article 16.

Verse 1, 2, and 3, which states that the contractor is obliged to give the service fees to KUD or BUMD for all the products delivered to the contractor as a result of production activities. The amount of the fees is defined based on the agreement between them in the production agreement. This fee is part of the operating costs for the contractor.

b. Extracting locally generated domestic revenue strategy through the arrangement of the establishment of regional-owned enterprises in the oil and gas sector in Bojonegoro Regency

Economic activity is an activity run by a person, group, or country in the economic sector to produce income to fulfil the needs. Indonesia runs its economic activity based on the 1945 Republic of Indonesia Constitution Law, Article 33,²⁰ Verse 4 that

“The national economic activities are held based on democratic economy with the principle of togetherness, efficiency, fairness, sustainability, environmental insight, independence and by maintaining a balance of progress and national economic unity”

This economic activity can have done by their state enterprises. The state enterprises are any enterprises owned by the state (The State-Owned Enterprises – BUMN) and BUMD. Having a regional autonomy, the regional government can establish its BUMD for public services purposes, profit-oriented purposes, or both. Each of the legal enterprises has its characteristics, which have become important for the regional government when deciding the type of the business entity according to the objective of the establishment. Generally, regional development establishes BUMD based on its potential, characteristics and needs of the region.

Regional Regulation No. 6, 2011 on the Amendment for Regional Regulation of Bojonegoro Regency No. 5, 2006 on the Establishment of PT BBS, mentions that:

- a. The BUMD business sector includes contractor service business activities classified as Big Enterprises, including projects funded by the Bojonegoro Regency Revenue and Budget Expenditures (APBD)
- b. To carry out and run industrial businesses which include non-oil and gas mining, oil and natural gas mining, food and beverage industry and canning/bottling (small scale)
- c. To operate and run business in the field of services, which includes hotel management services, supporting activities in the oil and gas industry, rental of four-wheeled vehicles, rent and management of the property, and all services except services in the field of law and tax.

In 2014, the Government of Indonesia enacted Government Law No. 23, 2014 on Regional Government (2 October 2014). This law consists of 411 articles that also regulate BUMD. Before that, the BUMD was not regulated in the Regional Government under Government Law No 32, 2004 but only regulated in Ministry Regulation No. 3, 1998 on Legal form BUMD which, is the Regional Enterprise (PD) and Limited Enterprises (PT). However, in the latest Law No. 23, 2014, mentions that BUMD consists of Public Regional Enterprises (PUD) and Limited Regional Enterprises (PPD), which have different legal forms compare to the previous one. There have been changes from Regional Enterprises (PD) to PUD, and Limited Enterprises (PT) to Limited Region Enterprises (PPD).

The definition for BUMD was not stipulated in the Law No. 32, 2004. The establishment of BUMD must comply with the Regional Regulation. If they establish PPD, they should comply to the Government Law for Limited Enterprises, in which at least fulfilling these elements: 1) participating interest procedures; 2) organisation structures and staffing; 3) evaluation procedures; 4) good corporate governance; 5) planning, reporting, coaching, monitoring; 6) cooperation; 7) the

²⁰ Indah Dwi Qurbani, ‘Prinsip Hukum Perimbangan Dana Bagi Hasil Minyak dan Gas Bumi’, (2014)

29(1) *Yuridika*, 114, <<https://ejournal.unair.ac.id/YDK/article/view/361/195#>>.

use of profits; 8) the assignment of Regional Government; 9) loan; 10) internal audit; 11) assessment on health, restructuring, and privatisation; 12) changes in the legal form; 13) bankruptcy; and 14) mergers, consolidations, and expropriations. The form of Regional Enterprises (PD) is no longer applicable and needs a change. Conceptually, this PD should run vital and public services in the region.

The Limited Enterprises (PT) is a general form according to the Law No 40, 2007 on Limited Enterprises, meanwhile the Limited Regional Enterprises (PPD) is also a Limited Enterprises that complies to the same Law as PT, in which its form, the region owns fully or minimum 51% shares. Therefore, the legal form of the Limited Enterprises (PT) and Limited Regional Enterprises (PPD) can be likened.

The following has discussed on the juridical strategy of BUMD's establishment and the regional policy strategy related to the BUMD's activities.

Juridical strategy of the BUMD's establishment

Investment activity is one of the obligations of the Regional Government, which contributes significantly to achieving the region's vision and mission, especially in improving investment. This capital investment has an important role in the success of the fourth development year, which is an equal distribution to suppress the regional disparity. Therefore, it is important to establish BUMD aligning with the provisions of the legislation.

The General Policy on Regional Planning is by allocating and prioritising the expenditures budget to participating interest/investment. Therefore, any surplus APBD (Regional Revenue and Budget Expenditures), can be allocated to the participating interest.

The establishment of BUMD has based on the regional needs and the business feasibilities from the BUMD that will establish. The regional needs assessment is by analysing the economic feasibility, market, financial feasibility, and other aspects, such as legislation, technology

availability, and human resources availability. The regional needs and business feasibility assessment have conducted as part of the RPJMD policy, which has regulated in the Government Regulation No. 54, 2017 Article 9, Verse 1, 2, 3, 4, and 5.

According to that regulation, the establishment of the BUMD determined and regulated in the Regional Regulation. As mentioned earlier, BUMD consists of Public Regional Enterprises (PUD) and Limited Regional Enterprises (PPD). The position of regional public companies as legal entities has obtained when the regional regulations governing the establishment of regional public companies come into force. Regionally owned companies are BUMDs in the form of limited liability companies whose capital is divided into shares that are wholly or at least 51% of their shares owned by one region.

Regional Policy Strategy

The development of the Bojonegoro Regency policy for 2019 – 2023 is stipulated in Bojonegoro's RPJMD document and detailed in the yearly RKPD determined by the regent. According to the RPJMD, the vision of the Bojonegoro Regency is "*making Bojonegoro as the people's income sources for the realization of a faithful, prosperous and competitive society*" and the missions of Bojonegoro are:

- Creating a social life system based on religious values and local wisdom.
- Achieving clean, transparent, and responsible governance.
- Achieving continuous improvement in the quality of human resources
- Creating a sense of security and partisanship for women, children, people with disabilities, and the poor
- Realising an increase in welfare based on society's economy and creative economy
- Realizing regional economic competitiveness based on local potential
- Realising infrastructure development that is equitable and environmentally friendly.

Based on information from the Head of the Bojonegoro Regency Planning and

Development Agency, it has stated that the contribution of the oil and gas sector is very important to the economic growth of the Bojonegoro Regency. This oil and gas sector has contributed to its profits sharing in 2018 amounted to IDR2.2 trillion, while the rest of the surplus from the whole APBD reached IDR2.1trillion. This was due to the realisation of the profit sharing was done in the fourth quarter in which the increase of the profit-sharing was mainly contributed by the increase of the oil price at the end of the year.

Bojonegoro can consolidate their democracy well and can effectively manage their oil and gas revenues for the maximum interests and welfare of the society, especially in the situation when Cepu Block is the largest contributor to the average daily lifting in Indonesia with a production of 220 million barrel/day. Democratic policy-making has then expected to improve the ability of the community and existing resources to be mobilized better. Hence, programs such as education, health services, forest and land rehabilitation efforts, and agricultural development can have realized faster and more directed based on the local capabilities of the community and natural resources.

For oil and gas producing regions, such as Bojonegoro Regency, the expectation of prosperity is achieved, and at the same time is limited by, the central government provisions regarding the size of regional shares in the framework of Participating Interest (PI) and revenue profit sharing (DBH) obtained by the regional government (Pemda). The greater the percentage of both PI and profit-sharing, the greater the income received by the regional government. It is obvious that in the era of regional autonomy, the management of the oil and gas sector was a policy that was not decentralized. Based on Law No. 22 of 2001 concerning Oil and Natural Gas, the management and utilization of oil and gas wealth is the authority of the central government both in terms of its regulation, supervision, management, and

utilisation.²¹ The fundamental consideration for this is:

"That oil and gas is a strategic non-renewable natural resource controlled by the state and is a vital commodity that controls the lives of many people and has an important role in the national economy so that its management must be able to maximally provide prosperity and welfare for the people." (1945 Republic of Indonesia Constitution Law Article 33)

The conception "controlled by the state," can be interpreted as "owned by the state," namely ownership in the broadest sense, ownership in terms of public, law which certainly serves as a source for the understanding of private ownership. The land, water, and all the wealth underneath of the state and water are not only understood in terms of control through mere regulatory functions. By being controlled by the state, the wealth of natural resources is entirely for the benefit of all people.

Along with regional autonomy, where the local government demands to be involved in the management of natural resources in the region, the central government accommodates the distribution of shares of capital participation in the regions. The Bojonegoro government has successfully minimized the knowledge gap between oil and gas industry players who are indeed very professional in their fields and regional human resources. Eventually, the smaller this knowledge gap, within certain limits, will further increase the enthusiasm of the region to advance itself through independent activities in the process of management and utilization of natural resources, which in this case can be accommodated by BUMD.

IV. CONCLUSION

Based on Regulation of the Minister of Energy and Mineral Resources No. 1, 2008 concerning Guidelines for the Exploitation of Old Oil Wells, that old wells may have

²¹ Indah Dwi Qurbani, 'Politik Hukum Pengelolaan Minyak Dan Gas Bumi Di Indonesia' (2012) 5(2) *Arena Hukum*, 115-121, 118,

<<https://arenahukum.ub.ac.id/index.php/arena/article/view/113/102>>.

cultivated through Local (villages) Enterprise Unit (KUD) or Regionally Owned Enterprises (BUMD). The BUMDs established in Bojonegoro is PT. Asli Dharma Sejahtera (ADS), PT. Bojonegoro Bangun Sarana (BBS), PT. Griya Dharma Kusuma (GDK), PD. Drinking Water (PDAM), PD. BPR. The establishment of BUMD has based on the potential, characteristics, and needs of the region. Based on Regional Regulation Number 6 of 2011 concerning Amendment to Regional Regulation of Bojonegoro Regency Number 5 of 2006 concerning the Establishment of PT BBS stated that: first, The BUMD business sector includes contractor service business activities that have classified as Big Enterprises, including projects, as well as those, are funded by the Bojonegoro Regency Regional Budget. Second, carrying out and running industrial businesses which include non-oil and gas mining, oil and natural gas mining, food and beverage industry and canning/bottling (small scale). Third, Operating and running a business in the field of services, which includes hotel management services, supporting activities in the oil and gas industry, rental of four-wheeled vehicles, rental, and management of the property and all services except services in the field of law and tax.

The regional development policy in Bojonegoro for 2019-2023 is stipulated in the Bojonegoro's Medium-Term Regional Development Planning (RPJMD) and has detailed on the Yearly Regional Development Planning (RKPD) which was determined by the regent (bupati). Moreover, nearly 50% of regional economic growth has driven by the oil and sector, but unfortunately, the local community has not received the optimal contribution from this growth. This was due to this sector absorbed only 4.6% of the local workforce in 2018 when compared to the agricultural sector, which absorbed labour up to 36%. The democratic policy-making has expected to further improve the ability of the community, and the existing resources can be mobilised better for better education, health care services, environmental rehabilitation, agriculture development.

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