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ABSTRACT

This research firstly examines the applicability of the Essential Facilities Doctrine in Indonesian Competition Law realm. Accordingly, the Doctrine is used to examine whether private participation can optimize equitable and sustainable renewable energy distribution in Indonesia.

Using the normative methodology, the Author examines existing national regulations, interpretations of bodies, and journal articles statistics, and reports, to evaluate the rate of efficacy and measures taken by the Government so far.

This research reveals that the application of the Essential Facilities Doctrine is not contradictory to the Article 33 paragraph 3 of the 1945 Constitution, Article 51 of Law 5 Year 1999 on Competition Law, and the Constitutional Court assessing Law 30 Year 2007 on Electricity Law, but also acts as an important justification to grant access electricity and allow competition for IPPs to produce, distribute, or sell electricity to ensure a more efficient, cheap, and equitable renewable electricity transmission.

Keywords: Essential Facilities Doctrine, PLN, Monopolistic Position, Renewable Electricity

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Analisis Doktrin Essential atas Efektifitas Posisi Monopolistik PLN dalam Mendistribusikan Listrik Baru Terbarukan di Indonesia

Oleh:

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INTISARI

Penelitian ini meneliti penerapan Doktrin Essential Facilities dalam ranah hukum Persaingan Usaha di Indonesia. Kemudian, penelitian ini menggunakan Doktrin tersebut untuk menguji apakah partisipasi swasta dapat mengoptimalkan distribusi listrik baru terbarukan yang adil dan berkelanjutan di Indonesia.

Dengan menggunakan metodologi normatif, Penulis meneliti peraturan nasional yang ada, interpretasi badan-badan, dan artikel jurnal, untuk mengevaluasi tingkat keberhasilan dan langkah-langkah yang telah diambil oleh Pemerintah sejauh ini.

Penelitian ini menunjukkan bahwa penerapan Essential Facilities Doctrine tidak bertentangan dengan Pasal 33 ayat 3 UUD 1945, Pasal 51 UU No. 5 Tahun 1999 tentang Hukum Persaingan Usaha, dan putusan Mahkamah Konstitusi yang menilai Undang-Undang Nomor 30 Tahun 2007 tentang Ketenagalistrikan, tetapi juga menjadi justifikasi penting untuk memberikan akses listrik dan membuka kompetisi bagi pembangkit listrik independen untuk memproduksi, mendistribusikan, atau menjual tenaga listrik untuk memastikan transmisi listrik bersih yang lebih efisien, murah, dan merata.

Kata Kunci: Essential Facilities Doctrine, PLN, Posisi Monopolistik, Listrik Terbarukan

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