

Indonesia: Jakarta Water Trust Plays Alleged Obfuscation Game

Wednesday 29 May 2013, by [JACOBSON Philip](#) (Date first published: 10 June 2013).

For more than a year, a civil society group has been trying to access certain data and documents associated with the management of Jakarta's piped water system, which since 1998 has been run by two private, foreign-controlled companies.

Under Indonesian law, the information should be public. And the parties that hold it, both public and private, say they have no problem with its release.

Yet despite repeated attempts to obtain the information, including letters, emails, phone calls and personal exchanges dating as far back as April 2011, the group, called the People's Coalition for the Right to Water (Kruha), remains empty-handed.

The companies, Palyja and Aetra, say they have always acted in an ethical way and complied with all the rules. Same with PAM Jaya, the state agency that ultimately is responsible for Jakarta's waterworks.

But Kruha advocacy coordinator Muhammad Reza, who also represents the People's Coalition Against the Privatization of Water in Jakarta (KMMSAJ), a larger umbrella group, said his experience showed otherwise.

In interviews with the Jakarta Globe, Reza described a process wherein the parties professed transparency, but only ever passed the buck.

"They only pay lip service," he said. "They are trying to make a fool out of the public."

Last November, Reza initiated a formal process through Indonesia's Public Information Commission (KIP), aiming to force the release of what he seeks through legal means. On Monday, the process entered adjudication, at the conclusion of which KIP will either declare the information public or rule in favor of PAM Jaya.

The most important document is an addendum attached to the contract PAM Jaya holds with its operators that includes capital expenditures, operational expenditures, financial projections — everything that is used to calculate what people pay for water in Jakarta and what PAM Jaya pays the operators for their services.

Passed around

Indonesia's 2008 Law on Freedom of Information and its 2009 Law on Public Services require state agencies like PAM Jaya to let anyone access information regarding any agreement that they have with a third-party contractor.

The contract between PAM Jaya and the operators, meanwhile, includes a "confidentiality clause" that forbids the disclosure of "all commercial and technical information" held by either party.

The clause does make an exception. If both parties sign a “written agreement,” they can release confidential material.

Palyja’s position is that it is totally transparent and that it is up to PAM Jaya to decide whether to release the information Kruha has requested. Palyja first expressed this view in a letter dated April 25, 2011, written by Philippe Folliasson, the Palyja president director, in response to a letter from Reza asking for a long list of documents. For each item, Folliasson wrote either that it was already available on Palyja’s website or something along the lines of “Palyja leaves it to PAM Jaya to agree to provide this document.”

Folliasson confirmed that view to the Globe by phone on May 23. “Our position is that we will follow up with whatever PAM Jaya wants to do,” he said.

PAM Jaya chief Sri Kedari, meanwhile, says he would release the information, if not for the confidentiality clause, which means the operators could sue PAM Jaya if it granted Kruha’s request. Sri confirmed this several times, including in interviews with the Globe in February and April.

In the April interview, when the Globe showed Sri a copy of Palyja’s letter from 2011, which the Globe had obtained from Kruha, Sri said it did not amount to a “written agreement” as required by the contract, and thus he could not release the requested information.

When asked if he had ever gone to Palyja directly to ask it if it would sign a written agreement, Sri said that PAM Jaya had sent letters to both Palyja and Aetra but that both companies had refused.

In KIP mediation sessions on March 26 and April 9, PAM Jaya officials said the same thing, Reza said. At the first session, after PAM Jaya said it couldn’t release the information for fear of getting sued, it was decided that PAM Jaya should ask the operators about signing a written agreement and that they would meet again on April 9. At the second session, the PAM Jaya officials reported back that the operators had refused, Reza said.

However, on May 23, Folliasson, asked if PAM Jaya had ever asked Palyja if it would consent to release the information Kruha sought, said, “Not as far as I know. It’s mostly been the other way around, as far as us relaying [Kruha’s requests] to them [PAM Jaya].”

Informed of Sri’s claim that PAM Jaya had written Palyja about making a written agreement, Folliasson said he couldn’t recall definitively whether he had communicated with Sri on the matter. “I may have talked to Sri about it,” he said. “If there is a written correspondence — I’m not sure we have anything in writing. I need to check. I don’t know by memory.”

Asked if Palyja’s stated willingness to disclose the information meant he would sign a “written agreement” as stated in the contract, Folliasson said that it did. “Palyja is totally transparent,” he said.

Aetra president director Mohamad Selim, meanwhile, told the Globe by phone in April that Aetra had never gotten any such letter from PAM Jaya. “If we had received such a letter, I would have seen it,” he said.

Even if he had received such a letter, Selim said he would have rejected it.

“I have a contract with my shareholders,” he said. “I cannot release any information related to this thing. The information is all confidential.”

Hasan Basri Saleh, a special assistant to Jakarta Governor Fauzi Bowo, declined to comment. “Any

information on PAM Jaya can be obtained directly from the board of directors,” he wrote in a recent text message, referring to Sri and his staff.

Sri, when asked in April, was not able to produce a copy of the letter that he said PAM Jaya had sent the operators. He did, however, have a copy of the contract’s Article 47 on “CONFIDENTIALITY,” which he had someone photocopy for the Globe.

Flushed out

Asked how it could possibly be that both PAM Jaya and Palyja said they would agree to disclose the information, yet Kruha had been unable to obtain anything, Reza said, “That is the question of corruption within PAM Jaya. There are some people in PAM Jaya who really work for Palyja, and they are the subject of a KPK [Corruption Eradication Commission] investigation.”

KMMSAJ and Indonesia Corruption Watch reported PAM Jaya to the KPK on Jan. 31. The report accused PAM Jaya of conspiring to enrich the operators at the expense of Jakarta residents.

KMMSAJ says that if they can see just how the money has been used by the operators, who are reimbursed for everything they spend by PAM Jaya, they will be able to expose what has really been going on.

The group also seeks outright termination of the privatization arrangement. They say it defies Indonesia’s 1945 Constitution and has always been illegal, ever since it was conceived in the final year of strongman President Suharto’s regime.

“We want to use the contract as proof in court because we are going to sue them through a citizen lawsuit,” said Aliza Yuliana, a coordinator with Women’s Solidarity, a member of KMMSAJ.

She added that the deal was “absolutely a failure already and we don’t trust anyone. The management from the private sector, they only think about profits. But water should be in the public sector because it involves people’s lives.”

Because of a massive, growing debt that PAM Jaya owes its operators — at last count, more than Rp 600 billion (\$64 million) — it has for more than a year been under orders to push for renegotiation.

On Monday, PAM Jaya finally signed a “rebalanced” deal with Aetra. Fauzi, who will stand for reelection next month, clapped as Sri shook hands with Selim at City Hall after inking the new contract.

Reza called the signing a “disaster,” saying the whole process was carried out behind closed doors. “There was no public involvement,” he said.

For now, KMMSAJ is pushing on with the KIP and KPK processes. But Reza is worried both processes are taking too long, especially now that Aetra has its new deal.

Moreover, since the start of 2012 there have been no members on the Jakarta Water Supply Regulatory Body, set up in 2001 to serve as a neutral watchdog and mediator for the city’s new water trust.

The body’s five members were only informed in mid-February, after a long delay in which they did not know their status, that their terms would not be renewed for another period.

Terman Siregar, the Jakarta Investment Agency chairman, is in charge of selecting the new

candidates. He said his office had already conducted fit and proper tests and submitted its five names to the governor.

All that was needed now, he said, was for Fauzi to sign off.

“The draft of the decree has been prepared, of course,” Terman told the *Globe* on May 29. “I don’t understand what is happening.

“Maybe it is because of the tight schedule of the governor because he’s now running for the next term,” he added. “Maybe he doesn’t have time to look at the letters.”

Philip Jacobson

A Look Into the Companies Behind Jakarta’s Piped Water

(This is a sidebar for the article “Jakarta Water Trust Plays Alleged Obfuscation Game,” published in the June 9, 2012 edition of the *Jakarta Globe* [see above].)

Palyja and Aetra, the two companies that run Jakarta’s piped water system, have global connections.

Palyja, which manages the western half of Jakarta, is owned by Suez, a France-based transnational with operations worldwide.

Aetra, which handles the eastern half, is controlled by Acuatico, a Singapore based consortium with water supply interests in Jakarta, Tangerang and Hanoi.

Suez is named for Egypt’s Suez Canal, which it built. It has interests in water, electricity, natural gas and waste management, including dams in Brazil, gas plants in the Middle East, and coal generators in Thailand. In 2010, it made \$6.5 billion in profit.

Suez controls water in more than 100 cities. As in Jakarta, some of its privatization projects have been beset by controversy, including in Manila.

In 2006, Suez sold 49 percent of its shares in Palyja to Astratel Nusantara, part of Astra International, one of Indonesia’s largest conglomerates.

In March, Suez inked deals to develop two geothermal projects in Sumatra. Soon it will complete its takeover of Britain’s International Power, creating the largest independent power company in the world.

Acuatico was formed in 2006 to acquire Aetra from Britain’s Thames Water, which entered Jakarta with Suez in 1998. Acuatico’s majority owner is Recapital Advisors, an investment firm co-founded by Sandiaga Uno, one of Indonesia’s richest men. Its minority owner is Glendale Partners, an infrastructure management firm.

Acuatico holds a 95 percent stake in Aetra. The rest belongs to Alberta Utilities, a unit of Bakrieland Development. Aburizal Bakrie, also one of the country’s richest men and chairman of the Golkar Party, has announced his intentions to run for president in 2014.

Since 1998, Palyja has made more than \$107 million. Aetra has netted \$32.7 million.

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P.S.

* The Jakarta Globe. webadmin on 4:52 pm June 10, 2012.:

<http://www.thejakartaglobe.com/archive/jakarta-water-trust-plays-alleged-obfuscation-game/>