

## Legal Study Of Criminal Acts Of Electricity Theft Reviewed Based On Law No. 30 Of 2009 Concerning Electricity

Rinaldi Kalman<sup>1\*</sup>, Kusno<sup>2</sup>, Ahmad Ansari Siregar<sup>3</sup>

<sup>1,2,3</sup>Universitas Labuhanbatu, Sumatera Utara, Indonesia

\*Corresponding Author:

Email: [rinaldikalman22@gmail.com](mailto:rinaldikalman22@gmail.com)

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### Abstract.

*The purpose of this study is to find out and understand the Regulations on Electricity Reviewed Based on Law No. 30 of 2009 Concerning Electricity and Criminal Liability for Perpetrators of Electricity Theft. The type of research used is normative research, with an approach method through legislation. Discussion Results: First, the Regulations on Electricity Reviewed Based on Law No. 30 of 2009 Concerning Electricity are regulated in CHAPTER I to CHAPTER XVII. The Regulations regulate: General Provisions; Principles and Objectives; Control and Business; Management Authority; Utilization of Primary Energy Sources; General Electricity Plan; Electricity Business; Land Use Permits; Selling Prices, Network Rentals, and Electricity Tariffs; Environment and Engineering; Guidance and Supervision; Investigation; Administrative Sanctions; Criminal Provisions, Transitional Provisions; Closing Provisions. Second, Criminal liability for perpetrators of electricity theft is regulated in Article 51 paragraph (3) and Article 53 of Law Number 30 of 2009 concerning Electricity. Article 51 Paragraph (3) which reads "Any person who uses electricity that is not his right unlawfully shall be punished with imprisonment of a maximum of 7 (seven) years and a maximum fine of Rp2,500,000,000.00 (two billion five hundred million rupiah). And Article 53 which states: "Any person who carries out business activities supporting electricity services without a permit as referred to in Article 25 paragraph (1) shall be punished with imprisonment of a maximum of 5 (five) years and a maximum fine of Rp2,000,000,000.00 (two billion rupiah)."*

**Keywords:** Legal Review; Criminal Act; Electricity Theft and Electricity.

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## I. INTRODUCTION

The need for lighting such as electricity is currently a basic need for both urban and rural communities. Where according to several sources, the need for electricity per capita in Indonesia in 2023 will reach 1,337 kWh/capita, an increase of 13.98% from 2022 which was 1,173 kWh/capita. Electricity consumption per capita in Indonesia has continued to increase since 2017. Electrical energy is a vital need for all people today and is the most economical resource for various activities, both households and other industries. The number of people increases, so will the need for electricity. Minister of Energy and Mineral Resources (ESDM), Arifin Tasrif said that in 2024 electricity consumption is targeted to reach 1,408 kWh/capita with this in the following year the Government continues to prepare electricity supply to anticipate the increase in electricity consumption for the community. The Government is even trying to optimize domestic electricity transmission to reduce the Cost of Provision (BPP) of power plants, in order to reduce the value of electricity subsidies. In the past few years, the increase in electricity rates has been very disturbing for the community, while the amount of electricity needs in the community has increased. With the high cost of electricity rates imposed on the community, many crimes have occurred in the electricity sector, namely the crime of electricity theft. Electricity theft is not only committed by professional criminals in the electricity sector, but ordinary people also do it a lot.

This action is carried out with the intention of taking electricity illegally without being charged the rates imposed by the government. So electricity is obtained for free without having to pay the relevant parties. With the large number of electricity thefts, it can create a burden for the state, where the state bears such a large loss from electricity that is taken illegally to avoid paying the specified electricity tariff. In 2020, it was known that the state lost IDR 4.43 trillion, then in 2021 it fell to IDR 3.82 trillion. Then in 2022,

losses again due to illegal electricity use skyrocketed to IDR 4.63 trillion. This proves that theft of state electricity is often carried out by irresponsible people who result in huge losses for the state. From the explanation above, this is the reason for the author to raise a research entitled Legal Study of Criminal Acts of Electricity Theft Reviewed Based on Law No. 30 of 2009 Concerning Electricity. The formulation of the problem is how is the regulation of Electricity Reviewed Based on Law No. 30 of 2009 Concerning Electricity; and how is the criminal liability for perpetrators of electricity theft Based on Law No. 30 of 2009 Concerning Electricity.

## **II. METHODS**

The type of research used is normative research, with an approach method through legislation. The type of normative research is legal research that examines the internal aspects of positive law, such as legal principles, legal rules, and legal concepts. This type of normative research is also known as library or doctrinal research.

## **III. RESULT AND DISCUSSION**

### **1. Regulations on Electricity Reviewed Based on Law No. 30 of 2009 Concerning Electricity.**

#### **Understanding Electric Power**

According to Article 1 Number 1 of Law No. 30 of 2009 concerning Electricity, it states that: "Electricity is everything related to the provision and utilization of electric power and supporting businesses for electric power." Furthermore, Number 2 states that: "Electric power is a form of secondary energy that is generated, transmitted, and distributed for all kinds of purposes, but does not include electricity used for communication, electronics, or signals." The Principles and Objectives of Electricity Development according to Article 2 paragraph (1) are that Electricity Development adheres to the principles of: a. benefits; b. equitable efficiency; c. sustainability; d. economic optimization in the utilization of energy resources; e. relying on one's own capabilities; f. healthy business principles; g. safety and security; h. environmental function sustainability; and i. regional autonomy.

Furthermore, paragraph (2) states that: "Electricity development aims to ensure the availability of electricity in sufficient quantities, good quality, and at reasonable prices in order to improve the welfare and prosperity of the people in a fair and equitable manner and to realize sustainable development." This shows that the availability of electricity must be sufficient to meet the need for electricity to improve welfare and realize more sustainable development. In terms of the implementation of the business for the provision of electricity by the Government and regional governments is carried out by state-owned enterprises and regional-owned enterprises. However, private enterprises, cooperatives, and community self-help can participate in the business of providing electricity for the Community and industry as well.

Regarding the authority to manage electricity for consumers, Article 5 paragraph (1) states: "Government authority in the electricity sector includes:

- a. determination of national electricity policy;
- b. determination of laws and regulations in the electricity sector;
- c. determination of guidelines, standards and criteria in the electricity sector;
- d. determination of guidelines for setting electricity tariffs for consumers;
- e. determination of the national general electricity plan;
- f. determination of business area;
- g. determination of permits for the sale and purchase of electricity across countries;
- h. determination of business permits for the provision of electricity for business entities that:
  1. the business area is cross-provincial;
  2. carried out by state-owned enterprises; And
  3. selling electricity and/or renting electricity networks to holders of electricity supply business permits determined by the Government;
- i. determination of operating permits whose installation facilities cover cross-provincial areas;

- j. determination of electricity tariffs for consumers from electricity supply business permit holders as determined by the Government;
- k. determination of approval for the selling price of electricity and rental of electricity networks from holders of electricity supply business permits as determined by the Government;
- l. determination of approval for the sale of excess electricity from operating permit holders determined by the Government;
- m. determination of business permits for supporting electricity services carried out by state-owned enterprises or foreign investors/the majority of whose shares are owned by foreign investors;
- n. determination of permits for the use of electricity networks for telecommunications, multimedia and informatics purposes on networks owned by holders of electricity supply business permits or operating permits determined by the Government;
- o. guidance and supervision of business entities in the electricity sector whose permits are determined by the Government;
- p. appointment of electricity inspectors;
- q. development of functional positions of electricity inspectors for all levels of government; and
- r. determination of administrative sanctions for business entities whose permits are determined by the Government.

In the provision of electricity, the community as consumers has rights and obligations regulated by law. Where the rights and obligations in Article 29 paragraph (1) states: "Consumers have the right to: a. receive good service; b. receive continuous electricity with good quality and reliability; c. receive electricity to which they are entitled at a reasonable price; d. receive repair services if there is an electricity disruption; and e. receive compensation if there is a blackout caused by errors and/or negligence in the operation by the holder of the electricity supply business license according to the conditions stipulated in the electricity purchase agreement." Furthermore, paragraph (2) states: "Consumers are required to: a. implement security against dangers that may arise due to the use of electricity; b. maintain the security of the consumer's electricity installation; c. utilize electricity according to its intended use; d. pay electricity usage bills; and e. comply with technical requirements in the electricity sector. Paragraph (3) states: "Consumers are responsible if their negligence results in losses for the holder of the electricity supply business license." Article (4) states: "Further provisions regarding consumer responsibility as referred to in paragraph (3) are regulated by Ministerial Regulation." Some of the modes that we know in theft of electricity include: first, replacing the Miniature Circuit Breaker (MCB) of the electricity meter intentionally.

This is done by blocking the electricity meter with certain items so that the meter does not work properly with the aim of obtaining greater electricity power, but the billing costs remain the same. procedural addition of electricity power will be subject to a higher tariff. Second, theft by tricking the kWh meter (electricity meter). This mode is done by lowering the jumper wire between terminals one and three. What happens is that the electricity usage record on the meter will look smaller than the actual usage. For example, electricity usage is 400 kWh, while only 300 kWh is recorded. The third mode is by replacing the MCB and tricking the kWh meter. This is a combination mode between the first and second modes that the author has explained previously. This is done by the perpetrator not only changing the electricity power, but the perpetrator also tricks the electricity meter so that its use is less and the tariff charged is cheaper. Fourth, the mode of making a direct electricity connection to the Public Street Lighting (PJU). Electricity theft with this mode, is carried out by the perpetrator to take electricity directly from the source, namely PJU. With various modes of operation, this type of electricity theft is a very illegal act and can be subject to criminal sanctions for the perpetrators. This incident will cause PLN to suffer great losses, where the electricity used is too large and the electricity rates paid are less and cheaper.

### **Criminal Act of Electricity Theft**

According to Wiryono Prodjodikoro in Tongat<sup>1</sup> A crime is an act whose perpetrator can be subject to criminal penalties. A crime or in Dutch strafbaarfeit or in a foreign language called delict means an act

whose perpetrator can be subject to criminal penalties, and this perpetrator can be said to be the subject of a criminal act. A crime has the same meaning as an event or crime. Moeljatno said that a crime is actually a human behavior that is subject to criminal penalties under statutory regulations.<sup>2</sup> According to the formulation of legal experts, the translation of *strafbaarfeit* is an act that violates or is contrary to the law, which act is carried out with error by a person who can be held responsible.

- 1) The elements in the Criminal Code are generally divided into 2 elements, namely subjective elements and objective elements. Objective elements include: human actions, consequences of human actions, circumstances surrounding the act, and unlawful nature (criminal nature). Subjective elements are elements that are found or attached to the perpetrator, or are connected to the perpetrator and include everything contained in his heart. This element consists of:
  - a Intention or unintentional (*dolus* or *culpa*).
  - b An attempt, as stated in Article 53 paragraph (1) of the Criminal Code.
  - c Crimes such as theft, fraud, extortion, and so on.
  - d Having a plan in advance, such as murder in Article 340 of the Criminal Code.
  - e Feelings of fear as stated in Article 308 of the Criminal Code.<sup>3</sup>

Theft is a crime against individual interests which is a crime against property/wealth. This is contained in Chapter XXII Article 362-367 of the Criminal Code. The word theft in Indonesian, comes from the root word "curi" which gets the affix "pe" given the suffix "an" to form the word "pencurian". The word theft has the meaning of the process, the act of stealing is carried out.<sup>4</sup> Article 362 of the Criminal Code defines theft as follows: "Anyone who takes something which is wholly or partly owned by another person, with the intention of unlawfully possessing the item, is punished for theft with a maximum prison sentence of five years or a maximum fine of Rp. 900,-."

Based on the text of Article 362 of the Criminal Code, we can see that the elements are as follows:

1. Take the goods;

The element of the crime of theft is the act of taking goods. The word taking in the narrow sense is limited to moving the hands and fingers to hold the goods and move them to another place. It is common to enter the term theft when people steal liquid goods such as beer by opening a tap to flow it into a bottle placed under the tap, even electricity is now considered to be stolen with a piece of wire.<sup>5</sup>
2. What is taken must be an item;

The element of taking is fulfilled when what is taken is a specific item. The items taken can harm the victim's property/wealth, and the items taken must be valuable/valuable.
3. The goods must belong wholly or partly to another person;

Belonging to another person means belonging to the owner of the goods, and the goods are taken from the true owner in a manner that is not legally permissible.
4. The taking must be done with the intention of possessing the goods unlawfully (against rights).

The crime must be based on the perpetrator's desire to own goods known to belong to someone else in an unlawful manner, namely by stealing/taking someone else's goods without the owner's knowledge. To then be controlled by the perpetrator of the theft.

So the conclusion is that theft in this case is the act of someone taking goods/objects belonging to another person in an unlawful manner to be controlled by the perpetrator. The law defines Electricity Theft as part of a dishonest act. The act is carried out by blocking the Electricity meter, damaging the electricity meter, using a transformer as a current inverter, this is categorized as an act of theft of electricity. If the elements have been fulfilled as a criminal act, then a person can be held accountable for the crime of theft of electricity according to the provisions in force in the legislation on electricity. There are several cases of electricity theft that have been decided by the Supreme Court and District Court Decisions relating to electricity theft, including: Supreme Court Decision Number 2379 K/Pid.Sus/2010 with Defendant

Aguswandi Tanjung, with the main case of theft of electricity, the Defendant was brought before the court for committing a crime of theft, namely theft of electricity. In the prosecutor's indictment it is stated that the defendant on August 7, 2009 to September 8, 2009 or at least in August to September 2009 or at least at other times in 2009 at the ITC Roxy Mas Apartment, 7th Floor No. 8 Jln. KH. Hasyim Ashari, Cideng Village, Gambir District, Central Jakarta or at least at a place within the jurisdiction of the Central Jakarta Court which has the authority to examine and try his case, has used electricity that is not the defendant's right.

The defendant used the electricity because the electricity in the defendant's room and/or the defendant's apartment was unilaterally cut off by PT. Jakarta Sinar Intertrade. Then the defendant was brought before the court by the Public Prosecutor with an alternative charge, namely Article 19 of Law Number 15 of 1985 concerning Electricity or Article 363 paragraph (1) point 3 of the Criminal Code. Then There is a Decision of the North Jakarta District Court, namely Decision number 95/Pid.Sus/2020/PN-Jkt.Utr, where this case involves the theft of electricity carried out by the Defendant along with four other people, namely witnesses. The defendant made an illegal electricity connection directly from the PT PLN network to the installation belonging to the witnesses without going through an official kWh meter. The defendant received wages for this work as well as monthly electricity usage fees from the witnesses. As a result, the use of electricity was not recorded by PLN, resulting in a loss of IDR 174,849,877. This action is considered to have violated the Electricity Law, namely Article 51 paragraph (3) of Law Number 30 of 2009. The sentence imposed is 2 years and 4 months in prison and a fine of one billion rupiah.

## **2. Criminal liability for perpetrators of electricity theft Based on Law No. 30 of 2009 concerning Electricity.**

Criminal liability for perpetrators of electricity theft is regulated in Article 51 paragraph (3) and Article 53 of Law Number 30 of 2009 concerning Electricity. Article 51 Paragraph (3) reads "Any person who uses electricity that is not his right unlawfully shall be punished with a maximum imprisonment of 7 (seven) years and a maximum fine of Rp. 2,500,000,000.00 (two billion five hundred million rupiah).

From the text of the article, it can be concluded that the elements of the crime are unlawful acts, which include:

### **a. Elements of the existence of electrical energy**

The elements of electrical energy referred to according to Article (1) paragraph (2) of Law Number 30 of 2009 concerning Electricity are: Electrical energy is a form of secondary energy that is generated, transmitted and distributed for all kinds of purposes, but does not include electricity used for communication, electronics or signals.

### **b. Elements that are not his rights**

The element stating that it is not his right means that it was obtained in an unlawful manner, that every act that violates the law in an unlawful manner that is not his right, will be subject to Article 51 paragraph (3) which states: "Any person who uses electricity that is not his right in an unlawful manner shall be punished with imprisonment for a maximum of 7 (seven) years and a maximum fine of IDR 2,500,000,000.00 (two billion five hundred million rupiah)."

### **c. Unlawful elements**

The crime of stealing electricity is an unlawful act that will be subject to Article 53 which states: "Any person who carries out business activities in the form of electricity support services without a permit as referred to in Article 25 paragraph (1) shall be punished with imprisonment for a maximum of 5 (five) years and a maximum fine of IDR 2,000,000,000.00 (two billion rupiah)."

Unlawful acts are divided into two parts, namely; formal legal acts and material legal acts. In the case of theft of electricity, formal and material legal acts have been fulfilled. Formal unlawful acts have fulfilled the elements in the crime of theft of electricity because of a criminal act, then the act is a criminal act. While the material unlawful acts that are fulfilled are the law not only looking at it from the perspective of the law as written law, but also looking at the application of applicable legal principles.



So the conclusion of formal legal acts is that they occur because they fulfill the formulation of a statutory crime. Formal unlawful nature is a requirement for an act to be punished. The teaching of formal unlawful nature is that if an act has fulfilled all the elements contained in the formulation of a criminal act, the act is a criminal act. If there are reasons for justification, then these reasons must also be stated explicitly in the law. When the elements of criminal law have been fulfilled, a person can be sentenced to criminal law, especially in Law Number 30 of 2009 concerning Electricity.<sup>6</sup> Law enforcement against perpetrators of electricity theft can be enforced by taking preventive measures or repressive measures. Preventive measures are taken as an effort to prevent electricity theft by perpetrators of theft carried out by PT. PLN as an electricity provider company. Repressive measures are taken through law enforcement against perpetrators of electricity theft by implementing the criminal articles applicable in Law Number 30 of 2009 concerning electricity, namely in Article 51 paragraph (3) and Article 53.

#### IV. CONCLUSION

1. Regulations on Electricity Reviewed Based on Law No. 30 of 2009 Concerning Electricity are regulated in CHAPTER I to CHAPTER XVII.

The Regulation regulates: General Provisions; Principles and Objectives; Control and Business; Management Authority; Utilization of Primary Energy Sources; General Electricity Plan; Electricity Business; Land Use Permits; Selling Prices, Network Rentals, and Electricity Tariffs; Environment and Engineering; Guidance and Supervision; Investigation; Administrative Sanctions; Criminal Provisions, Transitional Provisions; Closing Provisions.

2. Criminal liability for perpetrators of electricity theft is regulated in Article 51 paragraph (3) and Article 53 of Law Number 30 of 2009 concerning Electricity. Article 51 Paragraph (3) which reads "Any person who uses electricity that is not his right unlawfully shall be punished with imprisonment for a maximum of 7 (seven) years and a maximum fine of Rp. 2,500,000,000.00 (two billion five hundred million rupiah). And Article 53 which states: "Any person who carries out business activities in supporting electricity services without a permit as referred to in Article 25 paragraph (1) shall be punished with imprisonment for a maximum of 5 (five) years and a maximum fine of Rp. 2,000,000,000.00 (two billion rupiah)."

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