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BY BEN SHANE LIM

KUALA LUMPUR: The High Court has stayed a directive by the Energy Commission to Tenaga Nasional Bhd (TNB) pending a judicial review of the directive. The stay order was issued earlier this month when TNB obtained leave to initiate the judicial review against the commission and the energy, green technology and water minister.

The next court proceeding on the matter has been fixed for Nov 7, said industry sources.

The court action further delays the signing of YTL Power International Bhd's new power purchase

agreement (PPA) for a short-term extension that was granted last year for the 800mw combined cycle gas turbine (CCGT) Paka power station in Terengganu.

The extension is for 580mw, and Paka should have begun firing since March 1. But TNB and YTL Power are locked in a dispute over land leasing for the power plant. TNB is insisting YTL Power ink a new land lease agreement (LLA) as a condition precedent to securing the new PPA.

YTL Power's existing LLA with TNB is heavily skewed in the former's favour, which is why TNB wants to renegotiate a new one. But

since the LLA is still legally binding, YTL Power is under no obligation to comply. Both have been stuck at an impasse since last year.

Not wanting the matter to drag on, the Energy Commission issued a directive on April 7 compelling TNB to sign the new PPA with YTL Power, without renegotiating the new LLA. The directive was issued

pursuant to the minister's direction to the commission on April 1.

Failure to comply with the directive could result in a fine or imprisonment, or both.

But with the High Court ordering a stay of the directive, TNB does not have to comply with the directive

until the case is decided.

In the meantime, YTL Power's Paka power station has been sitting idle for over one year. Recall that the group's first-generation PPAs expired in September last year.

The Paka extension was one of three awarded by the government, via an open tender, as part of a temporary stopgap measure, ensuring the country has sufficient generation capacity. While Paka won't be the cheapest plant to fire, it would still save costs to have it operational as it would displace more expensive power plants.

"The longer the PPA is delayed, the more it is costing consumers. This

matter should be settled as quickly as possible," said an industry veteran.

Looking ahead, the extension for Paka is only valid for two years and 10 months. But after such a lengthy delay, it isn't clear if the extension will still lapse in December 2018.

After all, YTL Power has already invested into the refurbishment of the plant, priced on the assumption that the plant would be operational for the two years and 10 months.

Any loss for YTL Power stemming from the delay is likely to result in claims against TNB further down the line, said industry veterans — not an uncommon theme in the power sector.