

from July 21, 2004. TTW invested in Pathum Thani Water Co., Ltd., representing 98 percent of its registered capital, whereby such company operates the business of production and distribution of tap water in the vicinity of Pathum Thani and Rangsit, under the Water Purchase and Sale Agreement with the Provincial Waterworks Authority with a 25-year contract term from October 15, 1998. TTW also invested in Thai Water Operations Company Limited which operates the business of operation and management of tap water production and distribution systems and wastewater treatment service provision, whereby TTW holds shares representing 68.50 percent of its registered capital. In addition, TTW invested in the energy business by holding 25.31 percent of shares in CK Power Public Company Limited, a company investing in other companies operating the energy business. The benefits to be derived by the Company from investment in TTW shall be in the form of dividend income.

At present, the Company, as a shareholder, assigned its representative to be a member of the board of directors of TTW. As at December 31, 2016, the Company held shares in TTW representing 19.45 percent of its registered capital.

#### **CK Power Public Company Limited (“CKP”)**

The Company jointly invested in the establishment of CKP, which operates core business by investing in other companies (Holding Company) operating the business of production and distribution of electricity from various types of energy. As at December 31, 2016, CKP invested by holding shares representing 56 percent in SouthEast Asia Energy Limited; 30 percent in Nakhon Ratchasima Solar Limited; 30 percent in Chiangrai Solar Limited; 100 percent in Bangkhenchai Company Limited; 65 percent in Bangpa-in Cogeneration Limited; and 30 percent in Xayaburi Power Company Limited. The benefits to be derived by the Company shall be in the form of dividend from investment. At present, the Company, as a shareholder, assigned its representative to be a member of the board of directors of CKP. As at December 31, 2016, the Company held shares in CKP representing 19.40 percent of its registered capital.

#### **Xayaburi Power Company Limited (“XPCL”)**

The Company invested in XPCL, a company which was awarded the concession from the Government of the Lao People’s Democratic Republic for design, development, construction and operation of the Xayaburi Hydroelectric Power Project, with a 29-year concession period from the Commercial Operation Date. The benefits to be derived by the Company shall be in the form of dividend from investment. As at December 31, 2016, the Company held shares in XPCL representing 7.50 percent of its registered capital. All ordinary shares in XPCL held by the Company have been pledged as security of long-term loan of XPCL. The Company, as a shareholder, assigned its representative to be a member of the board of directors of XPCL.

## **5. Legal Disputes**

### **5.1 The disputes with Expressway Authority of Thailand (EXAT)**

The Company and the subsidiary had a total of 11 disputes with EXAT, which were referred to the Arbitral Tribunal in accordance with the dispute settlement procedures under the Agreements and in the Administrative Court. The essence of each dispute was as follows:

#### **5.1.1 Disputes submitted by the Company and the subsidiary claiming for damages in 8 disputes, with the total amount until the date of submission of the disputes of approximately Baht 28,179.8 million**

##### **1. Priority Component Opening Date under the Second Stage Expressway Agreement**

The Company submitted a statement of claim requiring EXAT to compensate for the deficient revenue with interest in the amount of Baht 3,831.4 million, due to different opinions as to which date was the Priority Component Opening Date, which affected the commencement of the toll revenue sharing with the Company under the Agreement.

The Arbitral Tribunal rendered its arbitral award on the dispute requiring EXAT to pay the toll revenue sharing including interest under the Agreement as required by the Company. EXAT subsequently issued a letter refusing to comply with the arbitral award.

And, on 20 April 2009, EXAT submitted a petition to the Central Administrative Court requesting the Court to revoke the arbitral award or order refusing to enforce compliance with the arbitral award, and on 19 October 2011, the Company submitted a petition to the Central Administrative Court requesting a judgment to enforce compliance with the arbitral award. The interest was calculated up to the date on which the Company submitted the petition to the Court, amounting to Baht 1,189.7 million, with the total disputed amount of Baht 5,021.1 million.

On 13 September 2013, the Central Administrative Court adjudged to dismiss EXAT's petition requesting the Court to revoke the arbitral award and adjudged to enforce the Company's petition.

On 11 October 2013, EXAT lodged an appeal against the Central Administrative Court's judgment with the Supreme Administrative Court.

The Supreme Administrative Court has determined the end of fact inquisitorial date on 5 January 2017.

At present, it is among processes of appointing of the judges for issuance of the opinion, determining of the first trial date and determining the adjudication date of the case.

## 2. Competing road with the Udon Rattaya Expressway

The subsidiary submitted a statement of claim requiring EXAT to compensate for the deficient revenue, based on the ground that the Government granted permission for construction of the Extension of the Don Muang Tollway Project, from the National Memorial to Rangsit Section, which constituted a competing road under the Agreement, and affected the financial position of the subsidiary, thereby rendering such damages until the date of submission of the dispute (excluding interest) to Baht 1,790 million.

The Arbitral Tribunal rendered its arbitral award on the dispute requiring EXAT to compensate for the deficient revenue with interest under the Agreement as required by the subsidiary. EXAT then issued a letter to the subsidiary refusing to comply with such arbitral award. And, on 3 March 2009, EXAT submitted a petition to the Central Administrative Court requesting the Court to revoke the arbitral award.

On 1 September 2011, the subsidiary submitted a petition to the Central Administrative Court requesting a judgment to enforce compliance with the arbitral award, with the disputed amount of Baht 3,296.7 million.

On 3 May 2013, the Central Administrative Court adjudged to dismiss EXAT's petition requesting the Court to revoke the arbitral award and the Central Administrative Court also issued a judgment to enforce compliance with the arbitral award.

On 31 May 2013, EXAT lodged an appeal against the Central Administrative Court's judgment with the Supreme Administrative Court. At present, it is pending the Supreme Administrative Court's consideration.

## 3. Issuance of variation orders by EXAT

The Company submitted a statement of claim requiring EXAT to compensate the Company for damages caused by EXAT's issuance of additional variation orders for certain construction work of the Si Rat Expressway in the total amount of Baht 209.1 million (excluding interest).

The Arbitral Tribunal unanimously rendered its arbitral award requiring EXAT to pay the construction costs and expenses as per the Notice of Variation in the total amount of Baht 382.5 million, including interest under the Agreement.

On 4 February 2014, EXAT issued a letter refusing to comply with the arbitral award. And, on 26 March 2014, EXAT submitted a petition to the Central Administrative Court requesting the Court to revoke the arbitral award.

The Central Administrative Court has determined the end of fact inquisitorial date on 23 September 2016.

On 21 October 2016, the Company submitted a petition to the Central Administrative Court requesting a judgment to enforce compliance with the arbitral award. At present, it is pending EXAT to submit its statement.

4. Revision of toll rates of the Chalem Mahanakorn Expressway and the Si Rat Expressway for the year 2003

The Company submitted a statement of claim requiring EXAT to compensate the Company for damages caused by the revision of toll rates of the Chalem Mahanakorn Expressway and the Si Rat Expressway for the year 2003, which was not in accordance with the Agreement, thereby causing the damages, including interest, in the total amount of Baht 4,368 million.

The Arbitral Tribunal, by the majority of votes, rendered its arbitral award requiring EXAT to compensate the Company for damages in the amount of Baht 4,368 million, including interest under the Agreement.

EXAT then issued a letter refusing to comply with such arbitral award. And, on 30 May 2016, EXAT submitted a petition to the Central Administrative Court requesting the Court to revoke the arbitral award.

On 4 November 2016, the Company submitted its answer to the petition to the Central Administrative Court.

At present, it is pending EXAT to submit its opposition.
5. Revision of toll rates of Sector D of the Si Rat Expressway for the year 2003

The Company submitted a statement of claim requiring EXAT to compensate the Company for damages caused by the revision of toll rates of Sector D of the Si Rat Expressway for the year 2003, which was not in accordance with the Agreement, in the total amount of Baht 1,048.2 million.

The Thai Arbitration Institute scheduled the Parties to submit their closing statements within 16 January 2017.
6. Revision of toll rates of the Chalem Mahanakorn Expressway and the Si Rat Expressway for the year 2008

The Company submitted a statement of claim requiring EXAT to compensate the Company for damages caused by the revision of toll rates (of the Chalem Mahanakorn Expressway and the Si Rat Expressway) for the year 2008, which was not in accordance with the Agreement, in the total amount of Baht 9,091.8 million, together with interest under the Agreement.

At present, it is pending the required arbitration proceedings of the Thai Arbitration Institute.
7. Revision of toll rates of Sector D of the Si Rat Expressway for the year 2008

The Company submitted a statement of claim requiring EXAT to compensate the Company for damages caused by the revision of toll rates of Sector D of the Si Rat Expressway for the year 2008, which was not in accordance with the Agreement, together with interest calculated up to 31 May 2013, in the total amount of Baht 4,062.8 million, including interest under the Agreement.

At present, it is pending the required arbitration proceedings of the Thai Arbitration Institute.
8. Revision of toll rates of Udon Rattaya Expressway for the year 2003

The subsidiary submitted a statement of claim requiring EXAT to compensate the subsidiary for damages, caused by the revision of toll rates of the Udon Rattaya Expressway for the year 2003, which was not in accordance with the Agreement, in the amount of Baht 908.7 million, together with interest under the Agreement.

At present, it is pending the required arbitration proceedings of the Thai Arbitration Institute.

### 5.1.2 Disputes submitted by EXAT claiming for damages in 3 disputes, with the total amount until the date of submission of the disputes of approximately Baht 1,589.2 million

#### 1. Construction of the Udon Rattaya Expressway, Phase 2

EXAT submitted a statement of claim requiring the subsidiary to complete the construction of the Udon Rattaya Expressway, Phase 2, in accordance with Clause 8.5 a. of the conditions of the Bang Pa-In - Pak Kret Expressway Agreement, and compensate for the amount of Baht 1,587.7 million, together with interest under the Agreement. The Agreement states that although the conditions of the Agreement to commence the construction has been fulfilled, the subsidiary shall not yet obliged to carry out the construction if EXAT breach of the Agreement causing the subsidiary to suffer financial set back materially. EXAT are in breach of the Agreement with the competing road and the revision of toll rates. Therefore, the subsidiary acquired its rights to not commence the construction and EXAT is not entitled to claim for indemnity.

At present, it is pending the required arbitration proceedings of the Thai Arbitration Institute.

#### 2. Cost of utilization of the Control Center Building (Bang Phun)

EXAT submitted a statement of claim requiring the subsidiary to be responsible for the cost of utilization of the Control Center Building (Bang Phun) in the amount of Baht 1.1 million, which the subsidiary was of the view that such cost claimed by EXAT was not within its scope of responsibility under the Agreement.

At present, it is pending the required arbitration proceedings of the Thai Arbitration Institute.

#### 3. Cost of arrangements of the entrance - exit and resolution of complaints

EXAT submitted a statement of claim requiring the Company to be responsible for the cost of arrangements of the entrance - exit claimed by complainants, and the cost of free flow drains, in the total amount of Baht 0.4 million, which the Arbitral Tribunal rendered its arbitral award ruling that EXAT had no right to claim for such costs.

On 7 May 2014, EXAT submitted a petition for revocation of the arbitral award.

At present, it is pending the Central Administrative Court's consideration.

Since the disputes are pending consideration, the Company and the subsidiary therefore did not record such entries in the financial statements.

## 6. General Information and Other Significant Information

### 6.1 General Information

#### (1) General information of the Company

**Company Issuing Securities** : Bangkok Expressway and Metro Public Company Limited ("BEM")

**Business Operation** : Construction and management of the expressways and the rail mass rapid transit system projects, including other related businesses

**Company Registration No.** : 0107558000491

**Registered Capital** : Baht 15,285 Million, which is fully paid up.

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