

Preliminary result of the investigation of effective competition conditions in the liquefied petroleum gas distribution market

Mexico City, December 6, 2021

The Investigative Authority of the Federal Economic Competition Commission ("COFECE") has determined that there are no effective competition conditions in the liquefied petroleum gas ("GLP") distribution market in Mexico.

Derived from the investigation under case file DC-001-2021, COFECE's Investigative Authority issued a Preliminary Ruling in which it is indicated that in 213 out of 220 relevant markets defined by the Authority: (i) there is a high degree of market concentration; (ii) GLP distributors have the capacity of fixing prices without the possibility of counteracting or competing with them; (iii) there are several legal and economic entry and exit barriers, in order to become or stop being a GLP distributor; (iv) there are groups and intermediaries that suppress or hinder the entry or permanence of GLP distributors in certain relevant markets, particularly in Mexico City and the Metropolitan Vicinity ("ZMVM"); (v) no new competitors have entered the market to compete with existing distributors, despite an increase in gross profit margins in recent years; (vi) there are only a few reduced competitors in the relevant market, and (vii) the Investigative Authority of COFECE, in relation with a different investigation, had already notified certain parties for the probable commission of absolute monopolistic practices, for jointly fixing prices.

In order to define geographic relevant markets, the Investigative Authority started in a local (municipality) base, and then comparing their activities and prices vis-à-vis primarily the adjacent municipalities' behavior. For defining the relevant product market, the authority performed a substitution analysis, comparing GLP with other possible, substituting products that ranged between wood to even electricity, as well as other means to provide GLP access to consumers.

Pursuant to such definitions, the Investigative Authority analyzed and concluded that there are no effective competitive conditions in the relevant markets. Amongst other highlights, the Authority argues that the distributors have increased their national gross profit margin in an

average of 145%, and that in some areas of the ZMVM (Mexico City), the increase was even of 285%. Furthermore, the Investigative Authority, using the Herfindahl – Hirschman Index, found that there were high concentration indexes in the relevant markets. In addition, the Authority found out that GLP distributors required significant investments and several permits, in which it was highlighted, among others, that the response terms for obtaining the necessary permits issued by the Energy Regulatory Commission (“CRE”) suffered considerable delays.

The Preliminary Ruling has been notified to the Energy Ministry and to the CRE, as well as published and sent to the interested parties in order for them to object the Investigative Authority’s findings before the Board of Commissioners of COFECE issues its final ruling. Interested parties in replying to the Authority’s Preliminary Ruling only have 20 business days to do so.

If the Investigative Authority’s conclusions are confirmed by the Board of Commissioners of COFECE, a definitive ruling stating that there are no effective competition conditions will be issued, where the CRE will then be entitled to establish the relevant prices, tariffs and fees regulation for GLP distribution.

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