

COFECE issues resolution on lack of competition in 20 routes of freight railway transportation of chemical and petrochemical products originating in southern Veracruz

- *The Railroad Service Regulatory Law establishes the concessionaires' freedom to set rates, which can be regulated by the Regulatory Agency of Rail Transport provided there is a resolution from COFECE determining the inexistence of effective competition conditions.*
- *With this resolution, the Agency might if deemed necessary determine services rates or establish new trackage rights for these routes, currently concessioned to Kansas and Grupo México.*

Mexico City, February 6, 2020.- The Mexican Federal Economic Competition Commission (COFECE or Commission) determined the lack of effective competition conditions in 20¹ routes of the public freight railway transportation of chlorine, ethylene oxide, anhydrous ammonia and caustic soda originating in the southern region of the state of Veracruz, entirely operated by *Kansas City Southern de México (Kansas)* or by *Grupo México*, through *Ferrosur* and *Ferromex*. This resolution enables the Regulatory Agency of Rail Transport (ARTF or Agency), if it deems it necessary, to regulate service rates or determine trackage rights for these routes of chemical and petrochemical products analyzed in this case.

The state of Veracruz represents 11% of the national chemical industry and 48% of the Mexican petrochemical industry. It is the location of 4 out of 7 Pemex's petrochemical complexes, three of which are situated in the municipality of Coatzacoalcos. Particularly, chlorine, ethylene oxide, anhydrous ammonia and caustic soda are facilities for over 50% of processes in the pharmaceutical, fertilizers, food-processing, cleaning and personal care, automotive, construction and other industries in the manufacturing sector. Transport of these raw materials requires diminishing risks for the population and the environment, rendering rail transport as the only means technically available.

In case file DC-003-2018, COFECE probed different routes of rail transport originating in southern Veracruz for the aforementioned chemical and petrochemical products. The Commission analyzed the existence of alternative railways or systems available to users for transporting these products from the point of origin, such as automotive, maritime, aerial transportation or by means of pipelines. The possibility of users procuring these facilities from suppliers located in other points of origin was also assessed.

¹ And two related routes.

Given no alternatives were found, the Board of Commissioners resolved effective competition conditions are inexistent in 20 railway routes for transportation of chemicals and petrochemicals reviewed, originating in the southern region of Veracruz. Thus, users of this service are subjected to conditions imposed by *Kansas* and *Grupo México* in their respective routes, and lack sufficient leverage to negotiate, which in turn could translate into transport providers potentially extracting benefits through raised service rates. Henceforth, the ARTF is in condition to, if it deems necessary, regulate transport rates for these products in these routes or, alternatively, determine new trackage rights that open up the possibility of new rail transport alternatives.

Routes the Commission found lacking competition conditions are:

Product	Origin(s) (Railway station)	Destination (Railway station)
Chlorine	Ing. Agustín Lira	Acocotla
	Ing. Agustín Lira	Carmela
	Ing. Agustín Lira	El Castillo
	Ing. Agustín Lira	Melchor Ocampo
	Ing. Agustín Lira	Morelia
	Ing. Agustín Lira	Nuevo Laredo
	Ing. Agustín Lira and El Castillo	Rosita
	Ing. Agustín Lira	Tochac
Ethylene oxide	Coatzacoalcos	La Junta
	Ing. Agustín Lira	Coatzacoalcos
	Ing. Agustín Lira	Doña Rosa
	Ing. Agustín Lira	Ecatepec
	Ing. Agustín Lira	Irapuato
	Ing. Agustín Lira	La Junta
	Ing. Agustín Lira	Maclovio Herrera
	Ing. Agustín Lira	Tochac
	Ing. Agustín Lira	Xalostoc
Anhydrous ammonia	Guanomex and Piedras Negras	Torreón
	Guanomex	Victoria
Caustic soda	Ing. Agustín Lira	El Castillo

The resolution on the absence of effective competition conditions in a market occurs when sectoral laws and regulations provide for the intervention of COFECE. This has the objective enabling the regulator, in the absence of competition and if it deems it necessary, to implement additional norms, such as regulating rates, prices or, to establish competitors' access rules to certain infrastructure, among other measures aimed at promoting competition.



The special procedure to determine effective competition in markets related to railway services is based on article 96 of the Federal Economic Competition Law and articles 36 and 47 of the Railroad Service Regulatory Law

This is the first resolution on lack of effective competition conditions issued by COFECE since its creation, in September 2013. Given the importance of this power, the Commission will continue to wield it upon request or directly when it is deemed essential to promote competition for the benefit of markets and consumers.

Once the resolution has been notified, the Law grants economic agents with legal standing the right to go before the Federal Judiciary to review the Commission's actions in an indirect *amparo* trial.

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MORE COMPETITION FOR A STRONGER MEXICO

The Federal Economic Competition Commission is entrusted with safeguarding competition and free market access. This contributes to people's well-being and the efficient functioning of markets. With its work, COFECE seeks better conditions for consumers, more services of higher quality and a "level playing field" for companies.

