

Informative note on the work of COFECE in the LP gas market

Mexico City, July 7, 2021.- The Mexican Federal Economic Competition Commission (COFECE or Commission) shares the concern of the citizens and of the Federal Executive Branch about offering quality energy at the best possible prices in Mexico. In fact, the Commission has been emphatic and vocal, within the framework of its powers, by taking actions both for investigating and, if it is the case, sanction anticompetitive practices, as for promoting greater competition in the gasoline, diesel, LP gas, jet fuel and electricity markets.

In the case of the LP gas market specifically, from the liberalization of the prices in 2017, COFECE intensified its interventions with the following measures.

It is important to point out that several of the public policy proposals raised in recent years by the Commission, which could be in line with the ones presented recently by the head of the Federal Executive Branch, have not been instrumented neither in the former nor in the current administration by the federal organizations and bodies of the sector.

In terms of investigations

Nowadays there are, among others, two investigation procedures in the LP gas market at the national level:

1. Investigation to **determine, with an objective and legal basis, if there are effective competition conditions in the retail sale of LP gas.** In accordance with the Hydrocarbons Law, in the distribution and commercialization of LP gas, prices can only be subjected to regulation when there is a determination of lack of competition from COFECE. Given the increase of prices, in May 2021 the Investigative Authority of COFECE announced the initiation of a procedure of this type (under file DC-001-2021)

In this regard, it should be noted that in the fiscal years from 2017 to 2019, the Congress of the Union established in the Federal Income Law (LIF per its acronym in Spanish) the power of the Energy Regulatory Commission (CRE per its acronym in Spanish) for the provisional regulation of the prices of the public retail of LP gas, as an interim measure, until COFECE concluded a declaration of competition conditions procedure. Nevertheless, from the 2020 fiscal year, the LIF stopped making reference to this interim measure, therefore it is essential to wait until the Board of Commissioners of COFECE, if it is the case, issues the



declaration on the lack of competition in order for the CRE to use its power to regulate prices.

That said, in the case that, pursuant to the regulation, the prices of the distribution of LP gas are regulated, it will be necessary for the CRE to consider that the wholesale sale of LP gas is a non-regulated market in which *Petróleos Mexicanos* and private importers participate, therefore wholesale prices follow, in general terms, the international references.

2. Investigation to **determine possible collusive agreements between distributing companies of LP gas**, which, instead of competing, could be manipulating prices and/or allocating the market of the distribution and commercialization of this fuel (file DE-022-2017 and aggregated)

In March 2021, COFECE notified several companies of a statement of probable responsibility for their probable responsibility in the realization of said illegal agreements. Currently this file is being processed in the stage in which those alleged responsible have the right to defend themselves, and it will be the Board of Commissioners of COFECE who, once the due process is handled, issues a final determination. If the collusion is proved economic sanctions of up to 10% of the income of involved companies could be imposed.

In terms of competition advocacy

COFECE published in 2018 the study *Transition towards competed energy markets: LP Gas*, in which it warned about the concentration of the market by a reduced group of companies, with the objective that federal authorities and lawmakers, who are responsible of improving regulation for the proper functioning of the market, to take action in this regard.

Said study has several recommendations to lessen the impact of this concentration, which – it is reiterated- have not been implemented by the Federal Government, even when some of them could be in line with what was recently proposed by the Federal Executive Branch. For example:

1. Promote the sale of LP gas cylinders in self-service stores through the facilitation of the obtention of permits so that retail stores, such as supermarkets or gas stations, sell LP gas cylinders to final consumers in their premises.
2. Sell LP gas to the vulnerable population in the Diconsa warehouses, not through a state-owned company, but through public tenders to choose the supplier of LP gas



for their warehouses, with the purpose of ensuring the best price and service conditions in these stores.

3. Eliminate regulatory obstacles at the local level for the installation of distribution plants, in which LP gas is delivered to clients in transportable or portable containers and for the sale in self-service stores, such as excessive requirements or few clarity in the criteria for the granting of these permits. In this regard, in 2019 during the installation of the National Council for Regulatory Improvement (CONAMER per its acronym in Spanish), COFECE presented its concern about these regulatory obstacles. As a result, a Sub Working Group for the regulatory improvement in matters of LP gas was created comprised by institutions from the private sector, civil society organizations, the federal government and state governments. Nevertheless, these works were suspended by the National Commission for Regulatory Improvement since 2020 without further explanation.
4. Develop a program of budgetary with the purpose of facilitating the substitutability of LP gas for natural gas so that the federative entities apply plans to promote investment in infrastructure (pipes), which today is a bottleneck for natural gas companies to offer this residential service.

It is important to highlight that, in the terms of the applicable regulation, prices do not depend on one sole authority or regulatory instance, but on a series of comprehensive actions that joined are oriented towards the generation of market conditions that pressure prices down. Only in co-responsibility of all the institutions involved this important common goal can be achieved.

