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TELMEX, Competitors Unable to Agree on Interconnection Fee

by LADB Staff

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Mexico's giant telephone company TELMEX remains embroiled in a bitter dispute with its major competitors regarding fees charged for the use of its telephone lines. As part of the deregulation of Mexico's telephone sector, TELMEX agreed to allow competitors to use its lines in exchange for a fee to be determined periodically. After eight months of negotiation, TELMEX and its major competitors have failed to reach an agreement for interconnection fees for 1999.

The failure of TELMEX to reach an agreement with Alestra Avantel, Miditel, and other companies has forced the government's telecommunications regulator (Comision Federal de Telecomunicaciones, COFETEL) to intervene in the dispute. In early November, COFETEL director Javier Lozano Alarcon announced that his agency will set the interconnection fee for 1999 because of TELMEX's failure to reach an agreement with its competitors. The Secretaria de Comunicaciones y Transportes (SCT), which was then the principal telephone regulator, was forced to take a similar action in 1996 (see SourceMex, 04/17/96).

The regulatory function was transferred to COFETEL under the telecommunications restructuring implemented by President Ernesto Zedillo's administration earlier this year (see SourceMex, 05/06/98). Avantel director Francisco Gil Diaz said his company is seeking changes in Mexico's telecommunications law to eliminate TELMEX's right to set the interconnection fee. "This system cannot be prolonged indefinitely because it benefits only the dominant carrier," Gil said in an interview with Mexico City business newspaper El Economista. Avantel is a partnership between US-based MCI Communications and Mexico's Grupo Financiero Banamex-Accival.

Lawrence Lafaro, general counsel for US telecommunications company AT&T, one of the principal partners in Alestra, said the competitors are not opposed to paying interconnection fees and allow TELMEX to recover costs incurred in laying infrastructure. However, he said the interconnection fees proposed by TELMEX are five times higher than actual costs. AT&T formed Alestra in partnership with Mexico's Grupo Alfa and Grupo Financiero Bancomer.

Avantel-Alestra plan opposed by smaller companies

The dispute between competitors and TELMEX is complicated by disagreements among the larger companies like Avantel and Alestra and smaller operators like Miditel and Protel. The smaller providers have strongly objected to an Alestra-Avantel proposal to develop competitive guidelines based on market share. Under the proposal, any company that has a 3% or smaller market share would be exempt from tight regulations.

However, if the small companies attain a 12% share jointly, then the largest of these companies would become subject to tight regulations. "This proposal is unjust, discriminatory, and a

disincentive to the growth of the market," said executives from Protel and Miditel, who accused Alestra and Avantel of attempting to create an "oligopoly" with TELMEX. Still, executives of the smaller companies said they were open to using the Avantel-Alestra proposal as a base to negotiate a more equitable plan. In addition to Protel and Miditel, companies like Grupo Iusatel, MarcaTel, Bestel, and Telinor have received permits to offer long-distance service in Mexico. Iusatel, a partnership between US-based Bell Atlantic and Mexican cellular company Grupo Iusacell, is one of the largest of the smaller operators.

Consumer groups form alliance against TELMEX

Complaints against TELMEX fees are not limited to competing telephone companies. In mid-October, a group of consumers formed a national alliance (Alianza de Usuarios Contra TELMEX) to protest the company's unjust user-fee structure. The effort is led by Mexico's largest consumer rights organization, the Asociacion Mexicana de Estudios para la Defensa del Consumidor (AMEDEC). AMEDEC president Arturo Lomeli said the consumer organizations object particularly to TELMEX's structure that bases local-service fees on actual usage.

Under terms of the TELMEX privatization in 1990, the government granted the company the right to measure actual usage to charge fees for local telephone service. Alliance organizers, who say their organization is similar to the debtors-rights organization El Barzon, claim the fee structure violates the Mexican Constitution and should be brought before the country's highest court (Suprema Corte de Justicia de la Nacion, SCJN).

TELMEX may have to modify its fee structure without a SCJN ruling because of increased competition for local service. In early October, the SCT presented five companies concessions to begin competing with TELMEX in some local markets, effective on Dec. 29. The five companies Dipsa, Grupo Hermes, Iusacell, Qualcomm, and Telinor originally were approved for concessions in June of this year. The companies will offer service primarily through wireless telephone networks but also via cable-based fiber-optic systems (see SourceMex, 06/03/98). Two other companies, Sistemas Profesionales de Comunicacion (SPC-Unefon) and Midicel, were also approved for concessions in June but failed to pay appropriate fees in a timely manner. SCT officials said SPC-Unefon and Midicel could be offering local service by October 1999. (Sources: El Universal, 10/14/98; Excelsior, 09/28/98, 10/08/98, 10/12/98, 10/16/98; The News, 10/19/98; The Miami Herald, Novedades, 11/02/98; El Economista, 10/16/98, 10/19/98, 10/20/98, 10/21/98, 11/02/98, 11/03/98)

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