

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Hubbard and Company; McGraw-Edison Company; Joslyn Mfg. and Supply Co.; Utilities Service Company; Oliver Electrical Manufacturing Company; and A. B. Chance Company., U.S. District Court, E.D. Wisconsin, 1963 Trade Cases ¶70,801, (Jul. 1, 1963)

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United States v. Hubbard and Company; McGraw-Edison Company; Joslyn Mfg. and Supply Co.; Utilities Service Company; Oliver Electrical Manufacturing Company; and A. B. Chance Company.

1963 Trade Cases ¶70,801. U.S. District Court, E.D. Wisconsin. Civil Action No. 62 C 49. Entered July 1, 1963. Case No. 1650 in the Antitrust Division of the Department of Justice.

Sherman Act

Price Fixing—Collusive Bidding—Transmission Line Hardware—Consent Judgment.—Six manufacturers of hardware used in the construction and maintenance of electrical and communication transmission lines were prohibited under the terms of a consent judgment from eliminating or suppressing competition in the sale of pole line hardware, fixing or maintaining prices, terms or conditions of sale of such hardware, communicating or exchanging price information, or submitting collusive or rigged bids for supplying such hardware.

For the plaintiff: Earl A. Jinkinson and Joseph Prindaville, Attorneys, Department of Justice, Lee Loevinger, Assistant Attorney General, and Harry N. Burgess, Attorney, Department of Justice.

For the defendants: Robert P. Harland for Hubbard and Company; Edward R. Johnston and Joseph Dean for McGraw-Edison Company; Hyman B. Raskin and Robert J. Downing for Joslyn Mfg. and Supply Co.; M. Harvey Smedley and Walter S. Davis for Utilities Service Company; Neil McKay for Oliver Electrical Manufacturing Company; and H. Templeton Brown and Patrick W. O'Brien for A. B. Chance Co.

Final Judgment

GRUBB, District Judge [*In full text*]: Plaintiff, United States of America, having filed its complaint herein on February 20, 1962, defendants having filed their answers thereto and the plaintiff and each of the defendants having consented to the: entry of this Final Judgment, it is hereby.

Ordered, adjudged, and decreed as follows :

I

[Sherman Act]

This Final Judgment is entered before the taking of any testimony, without trial or adjudication of any issue of fact or law herein and without any estoppel of, except as to the specific relief herein contained, or admission by any party as to any such issue. The Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states claims upon which relief may be granted against the defendants under Section 1 of the Act of Congress of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

[Definitions]

As used in this Final Judgment:

(A) "Person" means an individual, partnership, firm, association, corporation, or other legal entity;

(B) "Pole line hardware" shall mean and include specifically any, some or all of those products listed below and any other products used in the construction and maintenance of electrical transmission, distribution and communication lines which perform the same functions and are known generally in the trade as overhead and underground pole line hardware;

Cable extension arms	Guy attachments
Bands	Hangers
Bayonets	Hooks
Bolts	Irons
Braces	Links
Brackets	Nuts
Clamps	Pins
Clevises	Plates
Eyelets	Racks
Gains	Ridge Irons
Guards	Rods
Screws	Saddles
Shackles	Struts
Shims	Supports
Steps	Thimbles
Straps	Dead End tongues
	Washers

III

[Applicability]

The provisions of this Final Judgment applicable to any defendant shall apply to each of its successors, assignees, and transferees and the respective officers, directors, agents, servants and employees, and to all other persons in active concert or participation with any defendant who receive actual notice of this Final Judgment by personal service or otherwise.

IV

[Practices Prohibited]

Each of the defendants is enjoined and restrained from directly or indirectly entering into or adhering to any agreement, arrangement, understanding, plan or program with any other manufacturer or distributor of pole line hardware to:

- (A) Eliminate or suppress unreasonably competition in the sale of pole line hardware;
- (B) Fix or maintain prices, discounts or other terms or conditions for the sale of pole line hardware to any third person;
- (C) Communicate to or exchange any information concerning prices, discounts or other terms or conditions for the sale of pole line hardware prior to general publication to customers, except in connection with bona fide purchase or sale negotiations;
- (D) Submit collusive or rigged bids or quotations for supplying pole line hardware to any buyer.

V

[Non-collusion Affidavit]

Each of the defendants is ordered and directed annually for a period of five years from the date of entry of this Final Judgment to notify each Federal, State and local governmental agency to which the defendant submits a sealed bid for any pole line hardware, that such defendant has been ordered, and each such defendant is hereby

so ordered, to submit upon request of such public agency a statement in the form set forth in the Appendix hereto with each sealed bid for pole line hardware submitted to such agency.

VI

[Compliance]

Defendants are each ordered and directed within sixty (60) days following the entry of this Final Judgment to file with this Court, with a copy served on plaintiff, an affidavit stating that the defendant has withdrawn its price lists (or, where no price lists had been issued, its then prevailing prices) for pole line hardware which were in effect on or prior to June 6, 1961, and has issued new price lists or prices for pole line hardware, which price lists or prices were independently arrived at by such defendant on the basis of its individual cost figures and individual judgments as to profits and other lawful considerations.

VII

[Membership in Trade Associations]

Defendants are each enjoined and restrained from belonging to, or participating in, any of the activities of any trade association or other organization with knowledge that the activities or objectives of such trade association or other organization are being carried on in a manner which, if the association or other organization were a consenting defendant herein, would violate any provision of this Final Judgment.

VIII

[Inspection]

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant, made to its principal office, be permitted, subject to any legally recognized privilege:

(A) Access, during office hours of such defendant, to such books, ledgers, accounts correspondence, memoranda and other records and documents in the possession or under the control of such defendant, relating to any matters contained in this Final Judgment; and

(B) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers or employees of such defendant, who may have counsel present, regarding any such matters.

Upon such written request, such defendant shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as may from time to time be necessary to the enforcement of this Final Judgment.

No information obtained by the means permitted in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the plaintiff except in the course of legal proceedings in which the United States is a party for the purpose,)1 securing compliance with this Final Judgment or as otherwise required by law.

IX

[Jurisdiction Retained]

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions thereof, and for the purpose of enabling the plaintiff to apply to this Court for the enforcement of compliance therewith and for the punishment of violations thereof.

APPENDIX

Affidavit

The undersigned hereby certify to their best knowledge and belief that:

(1) The bid to(name of recipient of bid) dated has not been prepared by(name of defendant) in collusion with any other seller of pole line hardware, and

(2) The prices, terms or conditions of said bid have not been communicated by the undersigned nor by any employee or agent of(name of defendant), to any other seller of pole line hardware and will not be communicated to any such seller prior to the official opening of said bid,

in violation of the Final Judgment in Civil No. 62 C 49 entered by the United States District Court for the Eastern District of Wisconsin on 1963.

Dated:

.....

Signature of person responsible
for the preparation of the bid

.....

Signature of person supervising
the above person, where feasible