

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
)	
v.)	Civil No. 28228
)	
GENERAL ELECTRIC COMPANY,)	
ALLIS-CHALMERS MANUFACTURING)	
COMPANY, and WESTINGHOUSE ELECTRIC)	
CORPORATION,)	
)	
Defendants.)	

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on June 29, 1960, and the plaintiff and the undersigned defendant, General Electric Company, by their respective attorneys, having severally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law in said civil action, without this Final Judgment constituting evidence or an admission by either party signatory hereto with respect to any such issue, or with respect to any heavy electrical product to which this Final Judgment applies, and this Court having determined pursuant to Rule 54(b) of the Federal Rules of Civil Procedure that there is no just reason for delay in entering a Final Judgment as to all of plaintiff's claims asserted in said complaint against the defendant,

NOW, THEREFORE, before the taking of any testimony, without trial or adjudication of any issue of fact or law herein and upon consent of the parties signatory hereto as aforesaid, the Court hereby determines that the proceedings herein are terminated as to the defendant and directs entry of Final Judgment as to all of plaintiff's claims herein against the defendant and as to the defendant it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I

The Court has jurisdiction of the subject matter of this action and of the defendant signatory hereto. The complaint states claims upon which relief may be granted against that defendant 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

As used in this Final Judgment:

(A) "GE" shall mean defendant General Electric Company;

(B) "Person" means any individual, partnership, firm, corporation, association, trustee or any other business or legal entity;

(C) "Manufacturer" means, with respect to each separate heavy electrical product, a person who, for sale to others, manufactures or assembles, or proposes in good faith to manufacture or assemble, in its own plant regularly maintained for that purpose within the United States, such particular product;

(D) "Seller" means, with respect to each separate heavy electrical product, a person who sells such product in the United States, but shall not include a customer, manufacturer's representative or sales agent of defendant GE acting in such capacity with respect to such product;

(E) "Heavy electrical product" means:

Each product listed and defined in Appendix A; any other electrical product manufactured by defendant GE which is of the type primarily designed for use directly in the generation, by rotating equipment, of electric energy for sale to others, or in the commercial distribution or transmission of electric energy in power circuits to users, including devices used for transforming, switching or interrupting electric energy in such circuits; and electric rotating motors and generators; provided, however, the term "heavy electrical product" shall not include (a) motors with a stator diameter smaller than the diameter of a general purpose motor having a continuous rating of one

horsepower, open type, 1700/1750 rpm, and generators in corresponding sizes; (b) traction or transportation motors and generators; (c) motors and generators primarily designed for use in aircraft or space vehicles; (d) equipment or materials for the generation of energy by atomic fission or fusion and products specifically designed for exclusive use in atomic power applications; and (e) electronic data processing and communication equipment.

III

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

For the purpose of this Final Judgment defendant GE and its subsidiaries, officers, directors, agents, servants and employees, or any of them, shall be deemed to be one person. This Final Judgment shall not apply to the defendant GE with respect to (a) activities and operations outside the United States which do not affect the domestic commerce of the United States, (b) contracts to be performed outside the United States, and (c) export sales or sales for export outside the United States except with respect to sales to or for the stated use of the plaintiff or any instrumentality or agency thereof.

Defendant GE is ordered and directed to take such steps as are reasonably appropriate for the purpose of procuring compliance with the terms of this Final Judgment, such as:

- (1) For the period of twenty years following the effective date of this Final Judgment, deliver a copy of this Final Judgment: (a) to each present and future member of its Board of Directors; (b) to each of its present

and future Vice Presidents and chief managerial officers who are not members of its Board of Directors;

(c) to the present and future members of the Board of Directors, Vice Presidents and chief managerial officers of each domestic subsidiary, if any, engaged in the manufacturing, processing or sale of heavy electrical products;

(d) not less frequently than every two years, to each officer and employee of GE who has responsibility for establishing prices for the sale of heavy electrical products in the United States, together with a statement signed by the Chief Executive Officer of GE stating the obligation of such persons to comply with the terms of this Final Judgment; and file with this Court and serve upon the plaintiff affidavits as to the fact and manner of the delivery of a copy of this Final Judgment as provided for in this paragraph (1), such affidavits in respect of the delivery provided for in subparagraphs (a), (b) and (c) hereof to be filed and served ninety days after the effective date of this Final Judgment, and such affidavits in respect of the delivery provided for in subparagraph (d) hereof to be filed and served within ninety days after the end of any calendar year in which GE takes the action provided for in such subparagraph;

(2) Maintain a program of teaching and instruction of key domestic management employees on the application, meaning and effect of the terms of this Final Judgment.

IV

Defendant GE is enjoined and restrained with respect to each separate heavy electrical product from directly or indirectly entering into, adhering to or claiming or maintaining any right under any contract, agreement, arrangement

understanding, plan or program with any other manufacturer or seller of such product in the United States to:

(A) Eliminate or suppress unreasonably competition in the manufacture, distribution or sale of such product;

(B) Allocate or divide territories, markets, fields or customers for the manufacture or sale of such product;

(C) Fix or maintain prices, pricing methods, or any terms or conditions for the sale of such product to any third person;

(D) Exchange information concerning prices, pricing methods or other terms and conditions of sale (other than information released to the trade generally) at or upon which such product is to be sold to any third person;

(E) Submit noncompetitive, collusive or rigged bids or quotations for supplying such product to any third person;

(F) Bid or quote, refrain from bidding or quoting or communicate an intention to bid or quote or to refrain from bidding or quoting, on such product to be sold to any third person;

(G) Restrict, limit, prevent or unreasonably hinder any person from purchasing any such product from any third person (except as may result from any bona fide purchase or sale agreement, without more); and

(H) Restrict, limit, prevent or unreasonably hinder any person from selling any such product to any third person (except as may result from any bona fide purchase or sale agreement, without more).

V

Defendant GE is enjoined and restrained from directly or indirectly:

(A) With respect to each separate heavy electrical product, communicating to or exchanging with any manufacturer or seller of such separate product any prices applicable to such product except with or after the release of such prices to the trade generally, or except in connection with bona fide purchase or sale negotiations;

(B) With respect to each separate heavy electrical product, continuing to be a member of or participating in the activities of any association or other organization with knowledge that any of the activities of such association or such other organization are being carried on in a manner which, if such association or such other organization were a consenting defendant herein, would violate the provisions of this Final Judgment relating to such separate product;

(C) (1) Refusing to sell or quote on, subject to defendant GE's regularly established terms and conditions of sale, any of the following products as defined in Appendix A:

- power capacitors,
- watt hour and demand meters,
- instrument transformers,
- power transformers,
- navy and marine switchgears,
- isolated phase buses and isolated phase bus structure,
- bushings and accessories,
- insulators,
- low voltage power circuit breakers,
- large outdoor oil and air circuit breakers,
- power switching equipment,
- power switchgear assemblies, and
- lightning arresters,

to any manufacturer of electrical equipment (produced for general resale to others) in which such product is incorporated or to which such product is physically connected, for incorporation in, connection to and resale with or for the repair of such equipment, so long as such product is being sold or offered for sale by defendant GE to any other manufacturer of the same type of equipment for the same purpose;

(2) Refusing to sell or quote on, subject to defendant GE's regularly established terms and conditions of sale, any component of the following products as defined in Appendix A:

navy and marine switchgear,
isolated phase buses and isolated phase bus structures
power switching equipment, and
power switchgear assemblies,

(which component is manufactured by or for the defendant GE) to any manufacturer of such a product for incorporation in or for repair of such equipment and for general resale to others as a part of such product so long as such component is being sold or offered for sale by defendant GE to any other such manufacturer for the same purpose;

(3) Refusing to sell or quote on, subject to defendant GE's regularly established terms and conditions of sale, any generator to any manufacturer of turbine generator units (produced for general resale to others) in which such generator is incorporated, for incorporation in and resale with such turbine generator unit, so long as such generator is being sold or offered for sale by

the defendant GE to any other manufacturer of the same type of equipment for the same purpose;

(4) Refusing to sell or quote on, subject to defendant GE's regularly established terms and conditions of sale, any component of a power switchgear assembly (which component is manufactured by or for the defendant GE) to any manufacturer of panelboards, switchboards, motors or generators for incorporation in and for general resale to others as a part of or connected to such equipment so long as such component is being sold or offered for sale by defendant GE to any other manufacturer of the same type of equipment for the same purpose;

(5) Discriminating in any such sales by selling any product or component referred to in the preceding subsections numbered V (C)(1), V (C)(2), V (C)(3) and V (C)(4), in quantities, or at prices, terms and conditions of sale for the same quantities, not at the same time available to other such manufacturers; provided, however, that in any suit or proceeding hereafter instituted by the plaintiff against defendant GE charging a violation of this subsection V (C)(5) defendant GE may rebut a prima facie case made by the plaintiff by showing that its different prices or terms and conditions of sale to a purchaser or purchasers were made in good faith to meet an equally low price, or to meet the terms and conditions of sale, of a competitor, or was not pursuant to a course of business having the effect of substantially lessening competition among such manufacturers.

Provided that in any of the foregoing cases any such prospective purchaser is financially able, and is not delinquent in his account, to purchase such product or component and defendant GE is able in accordance with its usual and customary production and delivery scheduling procedures to supply such product or component to the purchaser at or about the time requested by the purchaser;

(D) Conditioning the sale to any person of any product listed and defined in Appendix A or any component of a product listed in paragraph V (C) (2), as ordinarily sold (except for repair or replacement purposes) by defendant GE to other persons in the same commercial class, upon the purchase from defendant GE of any other item of electrical equipment.

Provided, however, in any instance in which defendant GE reasonably believes that the use intended to be made of the product will expose defendant GE to a substantial risk of liability, nothing in subsections (C) and (D) of this Section V shall be deemed to prohibit defendant GE from requiring as a term of sale that the purchaser agree in writing to hold defendant GE harmless and to give a reasonably adequate bond (or, at the purchaser's option, to maintain reasonably adequate insurance) to secure such agreement insofar as it relates to claims by third persons.

VI

(A) Defendant GE is ordered and directed, not later than one year following the effective date of this subsection (A), individually and independently (1) to review and determine its published book prices and price rules, if any, for products listed and defined in Appendix A based upon lawful considerations, and (2) to announce such prices and price rules determined under (1) above; provided, however, that the price and price rule review, determination and announcement referred to above shall not be required with respect to any product as to which defendant GE, within one year following the effective date of this subsection (A), files with this Court, with a copy sent to the Assistant Attorney General in charge of the Antitrust Division, an affidavit stating that defendant GE, prior to the effective date of this subsection (A) and subsequent to June 29, 1960, reviewed, determined and announced the price and price rules, if any, of the product in accordance with t

requirements of this subsection (A); provided, further, that nothing contained in this subsection (A) shall prevent defendant GE from deviating from, modifying or otherwise changing the prices and price rules announced in accordance with this subsection (A).

(B) Defendant GE is ordered and directed to send a copy of this Final Judgment not later than one hundred and eighty (180) days following the effective date of this subsection (B) to each of the Federal, State and local agencies and any other governmental awarding authorities to which sales of any below listed product as defined in Appendix A pursuant to bids, a record of which is maintained in defendant's headquarters sales office, were made by defendant GE in the calendar year 1961;

Power Switchgear Assemblies

Large Outdoor and Oil Circuit Breakers

Low Voltage Power Circuit Breakers

Insulators

Lightning Arresters

Bushings and Bushing Accessories

Power Switching Equipment

Isolated Phase Bus and Isolated Phase
Bus Structures

Navy and Marine Switchgear

Power Transformers

Distribution Transformers

Network Transformers

Instrument Transformers

Steam Turbine-Generator Units

Power Capacitors.

(C) Defendant GE is ordered and directed for a period of ten (10) years from the effective date of this subsection (C) annually, by March 31st, to notify each Federal, State and local governmental agency to which defendant GE has, within the preceding calendar year, submitted a sealed bid for any of the following listed products as defined in Appendix A:

- Power switchgear assemblies
- Large outdoor oil and air circuit breakers
- Low voltage power circuit breakers
- Insulators
- Lightning arresters
- Bushings and bushing accessories
- Power switching equipment
- Isolated phase bus
- Navy and marine switchgear
- Power transformer
- Distribution transformer
- Network transformer
- Instrument transformer
- Steam turbine generator units
- Power capacitors
- Meters

a record of which bid is maintained in defendant's headquarters sales office, that defendant GE has been ordered, and the defendant is hereby so ordered for such period plus one year, to submit a statement in the form set forth in the Appendix B hereto with each sealed bid for any product listed in this subsection (C) submitted to such agency in response to an invitation to bid which requests such a statement.

(D) Defendant GE is ordered and directed, for a period of ten (10) years from the effective date of this Final Judgment, when submitting a bid or quotation for the sale of any of the equipments listed below (for which a price is included by defendant GE in the calculation of its bid or quotation) combined with other major heavy electrical products, to set forth and itemize separately the total amount included in such bid or quotation for each of the following products as defined in Appendix A:

- Power switchgear assemblies
- Large outdoor oil and air circuit breakers
- Low voltage power circuit breakers
- Power switching equipment
- Isolated phase bus and isolated phase bus structures
- Navy and marine switchgear
- Power transformers.

VII

Nothing contained in this Final Judgment shall be deemed to prohibit defendant GE:

(A) Where in order to sell or offer to sell electrical equipment which includes any heavy electrical product any person must have an item or items of electrical equipment (i) which it does not itself manufacture or assemble to combine with items of such equipment which it does itself manufacture, assemble or purchase from others, (ii) or if it does manufacture or assemble such an item, the item is of such a type or quality that it cannot competitively sell or offer to sell its own item, (iii) or where such person could not singly perform the contract contemplated by any such sale or offer to sell:

(1) from formulating or submitting, in combination with any person, a bona fide joint bid or quotation, where such joint

bid or quotation is denominated as such or known to the purchaser to be such; or

(2) from conducting bona fide negotiations for or entering into any lawful agreement with any person for a bona fide purchase from or sale to each other,

provided, that each party to the transaction is free to sell or offer to sell on terms independently determined by it;

(B) Where required directly or indirectly by a governmental agency from formulating or submitting in combination with any person a bona fide joint bid or quotation which is denominated as such or known to the purchaser to be such;

(C) From entering into, creating, carrying out or implementing by lawful conduct any otherwise lawful contract, agreement, arrangement, understanding, plan or program with any GE distributor or other person relating or ancillary to the sale or distribution of any heavy electrical product or component thereof obtained from GE;

(D) From lawfully contracting with any person for the supply to or by such person of any heavy electrical product or component thereof embodying the proprietary design of, or specially designed for, the purchaser upon terms prohibiting the supplier from selling equipment embodying such design to all others (except that the purchaser may authorize sales for repair or replacement purposes);

(E) From accepting or granting otherwise lawful patent, trade secret or technical information licenses; or

(F) From availing itself of any rights or benefits it may have pursuant to the Miller-Tydings Act, the MaGuire Act, or of any present or future act of Congress, including the patent laws.

VIII

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

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

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

Defendant GE, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and upon reasonable notice made to its principal office, shall submit such written reports, under oath if it is requested, with respect to any of the matters contained in this Final Judgment as from time to time may be necessary for the enforcement of this Final Judgment. No information obtained by the means provided in this Section shall be divulged by any representative of the Department of Justice to any person except a duly authorized representative of the Executive Branch of the United States except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law. If any such information is divulged to a duly authorized representative of the Executive Branch, outside the Department of Justice, such information shall be given after notice to defendant GE and on the condition that it will not be revealed to any person outside of such representative's Department or

Agency except where required by regulation or statute or pursuant to court process.

IX

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

X

The provisions of this Final Judgment shall become effective upon entry hereof.

Dated: October 1, 1962

/s/ J. Cullen Ganey

United States Circuit Judge
Specially Designated to Sit
in the District Court

We hereby consent to the making and entry of the foregoing
Final Judgment.

For the Plaintiff:

/s/ LEE LOEVINGER
Assistant Attorney General

/s/ DONALD G. BALTHIS
Donald G. Balthis

/s/ WILLIAM D. KILGORE, JR.
William D. Kilgore, Jr.

/s/ JOHN E. SARBAUGH
John E. Sarbaugh

/s/ BADDIA J. RASHID
Baddia J. Rashid

/s/ JOHN J. HUGHES
John J. Hughes

Attorneys, Department of Justice

For the Consenting Defendant:

GENERAL ELECTRIC COMPANY
by its attorney

/s/ HENRY W. SAWYER III

APPENDIX A

For the purpose of this Final Judgment, the products named in the left-hand column shall have the meaning set forth in the definition opposite each such product.

<u>Product</u>	<u>Definition</u>
Power Switchgear Assemblies	"Power Switchgear Assembly" means metal-clad switchgear assemblies in the general rating class of 5 and 15 kilovolts, low voltage metal-enclosed switchgear assemblies in the general rating class of 600 volts and below, and primary and secondary unit substations incorporating such assemblies. It does not include navy or marine switchgear assemblies.
Large Outdoor Oil and Air Circuit Breakers	"Circuit breaker" means any large outdoor oil or air circuit breaker rated in excess of 1500 volts.
Low Voltage Power Circuit Breakers	"Circuit breaker" means any commercial or Navy low voltage power circuit breaker with continuous current ratings of 6,000 amperes or below for 600 volts or below. It does not include molded case circuit breakers.
Insulators	"Insulator" means any suspension, switch and bus, high-voltage pin type, low-voltage pin type, guy strain, spool, distribution post, line post and station post porcelain insulator used in high-voltage electric power transmission and distribution systems.
Lightning Arresters	"Lightning arrester" means a protective device, for limiting voltages on apparatus by discharging or by-passing surge current and for preventing continued flow of follow current to ground, and accessories used with such a device, such as brackets, bracket assemblies, backer straps, terminal covers, back plates and clamps; "Lightning arrester products" means distribution, intermediate and station lightning arresters, and the unit of a lightning arrester combined with a dropout or non-dropout fuse cutout.

<u>Product</u>	<u>Definition</u>
Bushings and Bushing Accessories	<p>"Bushing" means any oil-filled condenser bushing having a rating in excess of 15 KV;</p> <p>"Accessories" include arcing horns, capacitance taps, oil level gauges, potential devices, power factor taps and terminals used with bushings.</p>
Power Switching Equipment	<p>"Power switching equipment" means all air-break switches rated in excess of 600 volts, including but not limited to disconnecting, grounding and interrupter switches, the mechanisms used for operating such switches, and the steel and aluminum structures and bus supports used in outdoor substations.</p>
Isolated Phase Bus and Isolated Phase Bus Structures	<p>"Isolated phase bus" means an assembly of conductors of electricity with associated connections, joints and insulating supports where each phase conductor is enclosed by an individual metal housing separated from adjacent conductor housings by an air space;</p> <p>"Isolated phase bus structure" means an isolated phase bus and other electrical devices, such as surge protective equipment, cooling equipment, bushings, switches, transformers and neutral grounding equipment, so designed and constructed as to functionally and integrally operate therewith;</p>
Navy and Marine Switchgear	<p>"Navy and marine switchgear" means power switchgear assemblies of 600 volts or below, designed or constructed for use aboard ships, including, but not limited to, switchboards, panelboards and control equipment designed or constructed for shipboard use as a part of power switchgear assemblies. The term "navy and marine switchgear" or the term "component" shall not include any power switchgear assembly or any component thereof subject to the applicable provisions of this Final Judgment.</p>
Power Transformers	<p>"Power transformer" means any transformer having a rating above 500 KVA, but shall not include network transformers. The term "power transformer" shall not include any power switchgear assembly or component thereof subject to the applicable provisions of this Final Judgment.</p>

<u>Product</u>	<u>Definition</u>
Distribution Transformers	"Distribution transformer" means any transformer having a rating between 3 KVA and 500 KVA inclusive, but expressly excluding furnace transformers, network transformers and instrument transformers.
Network Transformers	"Network transformer" means any transformer designed for use in a vault to feed a variable capacity system of interconnected secondaries.
Instrument Transformers	"Instrument transformer" means a transformer which is intended to reproduce in its secondary circuit, in a definite and known proportion suitable for utilization in measurements, control or protective devices, the voltage or current of its primary circuit, with its phase relations substantially preserved.
Industrial Control Equipment	<p>"Industrial control equipment" means any and all devices which individually or grouped are used in industrial applications for the control of motors or other power utilization apparatus rated not more than 750 volts d-c or 5,000 volts a-c. The scope specifically includes but is not limited to devices used for the following purposes:</p> <ol style="list-style-type: none"> (1) To start, stop, protect, accelerate, decelerate, reverse, and/or control the speed of electric motors; (2) To start, stop, and/or control the operations of resistance welding machines; (3) To provide some mechanical movement through the action of magnets or solenoids.
Low Voltage Distribution Equipment	<p>"Low voltage distribution equipment" means electrical equipment and apparatus designed and used in the distribution of electricity of 600 volts or less for either residential, commercial, institutional or industrial purposes.</p> <p>Excluded from the definition of "low voltage distribution equipment" are cable, wire, bituminous and metallic conduit or conduit fittings, fuses, plastic and metallic outlet and switch boxes, steel underfloor and header raceway systems including ducts and fittings therefore, and all type of wiring devices and their accessories.</p>

<u>Product</u>	<u>Definition</u>
Turbine-Generator Units	"Turbine-generator unit" means an assembly of a turbine and a generator used in production or generation of electricity on land by the use of steam, but it does not include marine turbines or marine turbine-generators, gas turbines or gas turbine-generators, hydroelectric turbine-generators or hydraulic turbines.
Power Capacitors	"Power capacitor" means any capacitor used to improve the power factor on power transmission and distribution circuits.
Watt-Hour and Demand Meters	"Meter" means any watt-hour meter and demand meter.

APPENDIX B

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 General Electric Company in collusion with
any other manufacturer or seller of _____
(type of equipment), and

(2) The prices, terms and conditions of said bid have not
been communicated by the undersigned nor by any employee or
other person acting on behalf of General Electric Company, to
any other manufacturer or seller of _____
(type of equipment) and will not be communicated to any such
manufacturer or seller prior to the official opening of said
bid,

in violation of the Final Judgment in Civil Action No. 28228 entered by the
United States District Court for the Eastern District of Pennsylvania on
_____, 1962.

Dated: _____

Signature of person responsible
for the preparation of the bid

Signature of person supervising
the above person, where feasible