

GENERAL RAILWAY SIGNAL COMPANY ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF FEDERAL
TRADE COMMISSION ACT AND SEC. 2 (a) OF THE CLAYTON ACT

Docket C-837. Complaint, Sept. 24, 1964—Decision, Sept. 24, 1964

Consent order requiring two manufacturers of railroad signaling and control systems and railroad signaling equipment—whose combined sales of such products during the past 30 years amounted to 90% or more of the total industry sales—to cease their planned common course of action pursuant to which they fixed and maintained agreed upon prices, terms and conditions of sale; allocated markets and customers and agreed not to compete for them; exchanged price information; designated products to be manu-

factured by a competitor; submitted collusive and non-competitive bids; maintained patent interchange licensing agreements; and entered into contracts requiring purchasers to buy from them all or a fixed percentage of the latter's requirements; to cease discriminating in price between different purchasers of their aforesaid systems and equipment by granting cumulative annual volume discounts which were substantial enough to cause purchasers to buy all of their requirements from one respondent in order to qualify for the maximum discounts; and requiring General Railway Signal Company to divest itself within one year of all its properties and rights, tangible and intangible, in a competitor it controlled—all with provisions as set forth in the order below.

COMPLAINT

The Federal Trade Commission, having reason to believe that the respondents named in the caption hereof, and hereinafter more particularly designated and described, have violated and are now violating Section 5 of the Federal Trade Commission Act (U.S.C., Title 15, Section 45) and Section 2(a) of the Clayton Act (U.S.C., Title 15, Section 13), as amended, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges with respect thereto as follows:

COUNT I

Alleging violation of Section 5 of the Federal Trade Commission Act:

PARAGRAPH 1. Respondent General Railway Signal Company, hereinafter referred to as General, is a corporation organized and existing under the laws of the State of New York, with its principal office and place of business located at 801 West Avenue, Rochester 2, New York.

Respondent Westinghouse Air Brake Company, hereinafter referred to as Westinghouse, is a corporation organized and existing under the laws of the State of Pennsylvania, with its principal office and place of business located at 3 Gateway Center, Pittsburgh 22, Pennsylvania.

PAR. 2. Respondents General, acting directly, and Westinghouse, through its Union Switch & Signal Division located at 1789-1807 Braddock Avenue, Swissvale, Pittsburgh, Pennsylvania, are engaged in the manufacture, sale, sale and installation of mechanical, electrical, and electronic systems for control of traffic on railroads and subways. The systems include Centralized Traffic Control Systems (CTC), Automatic Classification Yards, Interlocking Systems and related signal components such as switch machines, signals, rectifiers, relays,

track circuits and car retarders. These products are hereinafter collectively referred to as railroad signaling and control systems and railroad signaling equipment.

PAR. 3. Respondents General and Westinghouse are in competition with other corporations, partnerships, individuals and with each other in the manufacture, sale, sale and installation of railroad signaling and control systems and railroad signaling equipment in interstate commerce, except to the extent that such competition has been hindered, lessened, restricted, restrained and eliminated by the unfair methods of competition and unfair acts and practices hereinafter set forth.

Said respondents, in the course and conduct of their business as aforesaid, are now, and have been, engaged in interstate commerce in the manufacture, sale, sale and installation of such products in that each respondent has been and is now selling its products to purchasers thereof located in states other than the state of manufacture of said products. Respondents have, directly or indirectly, caused said products to be transported from the state of manufacture to said purchasers located in other states, or in the District of Columbia. There is now, and has been, a constant course and flow of trade and commerce in said products between respondents and purchasers thereof located in various States of the United States and the District of Columbia.

PAR. 4. Modern signaling and control systems such as block, interlocking, traffic control, special control and the like have as their object the safe and efficient movement or control of locomotives, cars, trains or switches. A centralized traffic control system through remote control of railway signals and switch machines permits train operation at distant points by direct signal indication. Other systems such as Automatic Classification Yard Control permit automatic programming and routing of cars onto multiple classification tracks so that they will couple at a minimum of speed and impact. Interlocking systems, an arrangement of signals, switch machines and control equipment provide a means for automatic direction and control of train movements through a given area.

The basic hardware of all system installations, the signaling components such as switch machines, signals, rectifiers, relays, and retarders are required in multiple quantities depending on the size and complexity of the system. Such products represent, therefore, a major portion of the dollar cost of a system installation.

Railroad signaling and control systems and railroad signaling equipment sales in the United States during the past 10 years have ranged from approximately \$30,000,000 to \$60,000,000 per year. Sales of such

products by respondents during the past 30 years have amounted to 90% or more of the total industry sales of such products.

Railroad signaling and control systems and railroad signaling equipment are essential for the safe and efficient movement or control of locomotives, cars, trains or switches, as well as the protection of life and property, on railroads and subways.

PAR. 5. Commencing during or about 1916, and continuing to the present time, respondents General and Westinghouse have been engaged in unfair methods of competition and unfair acts and practices in commerce in the manufacture, offering for sale, sale, sale and installation of railroad signaling and control systems and railroad signaling equipment in that they have, through conspiracy, combination, agreement, course of dealing, and planned common course of action, and as a part thereof, done and performed the following:

- (a) Fixed and maintained prices, terms and conditions of sale;
- (b) Agreed to divide markets and customers;
- (c) Agreed not to compete for markets and customers;
- (d) Submitted collusive and non-competitive bids;
- (e) Foreclosed access to substantial markets to competitors and potential competitors;
- (f) Attempted to monopolize and have monopolized the manufacture, sale, sale and installation of railroad signaling and control systems and railroad signaling equipment.

In furtherance of, and in conformity with the aforesaid combination, conspiracy, agreement, course of dealing, and planned common course of action in restraint of trade and commerce, respondents General and Westinghouse have engaged in unfair methods of competition and unfair acts and practices such as, but not limited to, the following:

1. Patent interchange licensing agreements have been in effect continuously between respondents General and Westinghouse since on or about May 4, 1916. The parties to this 1916 agreement were General, Union Switch & Signal Company, now operated as a division of respondent Westinghouse, Federal Signal Company and Hall Switch & Signal Company. Each party to the agreement was then engaged in the manufacture, sale, sale and installation of railroad signaling and control systems and railroad signaling equipment.

In this agreement the parties thereto assumed that all United States patents, patent applications and inventions for signaling, as "signaling" was defined therein, owned or controlled by the parties, or under which they had the right to grant licenses, were of an aggregate value represented by the number 1,000. Each party was then assigned as a royalty basis, a percentage of the aggregate value allegedly equiv-

alent to the relative value of the patents, patent applications and inventions on signaling then owned or controlled by each party.

Each party's royalty basis thereafter became its sales position, since whenever a party's net sales of signaling exceeded its royalty basis it was required to pay 20% of the excess to those parties whose net sales of signaling fell below their respective royalty basis. Said agreement also provided that each party would license the others under all existing patents owned by said parties, and licenses also would be issued under future patents issued to any party during the life of the agreement. Additionally, each was required to render to the others monthly sworn statements showing net sales, including names of the purchasers, net selling prices, and the character of the system or apparatus sold and installed.

Subsequent to this agreement respondents General and Westinghouse, during 1924 or thereabouts, acquired by purchase or otherwise, respectively, Federal Signal Company and Hall Switch & Signal Company. As successors in interest to the aforementioned companies, General and Westinghouse extended and continued in all respects, the patent interchange licensing agreement.

The 1916 agreement was replaced by a new agreement entered into by General and Westinghouse on January 1, 1952. This agreement provided for the interchange of non-exclusive licenses under any existing patents owned or controlled by the parties, and under any patents acquired in the future. Royalties were required to be paid on all "sales" of railroad signaling equipment, including all charges for labor and other services rendered to customers. Monthly royalty reports were exchanged which reports included names of customers and dollar sales to each customer.

On August 31, 1962 General and Westinghouse cancelled the 1952 agreement and entered into a new agreement whereby each granted to the other a non-exclusive license, without right to sublicense, under all United States and Canadian patents owned by each company as of the date of the agreement or subsequently issued on applications for patents pending as of the date of the agreement. The terms of the agreement do not provide for royalty payments or the reporting of sales information.

2. Respondents General and Westinghouse had in effect with their respective customers for a period in excess of twenty years, contracts of the requirements type which, considered together with discount arrangements then in effect, resulted in the elimination of competition and a division of customers between said respondents, and had the further effect of hindering and foreclosing entry into the signal equip-

ment market by competitors and potential competitors. These contracts were revised approximately ten years ago.

3. Respondents General and Westinghouse currently have in effect cumulative volume discount schedules which, considered together with the requirements contracts and discount arrangements previously in effect, have served to create and maintain and continue to create and maintain a division of customers between them by acting as an inducement to said customers to continue purchasing from whichever respondent is their present supplier in order to obtain the maximum discounts. Said volume discount schedules have the further effect of hindering and foreclosing entry into the signal equipment market by competitors and potential competitors.

4. Respondents General and Westinghouse have communicated and do now communicate between and among themselves and have filed and exchanged with each other detailed sales information including names of all customers and particulars of sales to each customer. Respondents have cooperated and assisted each other through arrangements made and carried out whereby plant visitations of key personnel were made during which information relating to the production, engineering, and administrative procedures and policies of each were made known to the other. Through and by means of such acts, practices and methods respondents have and are now kept informed of the activities of each other and are thus furnished with, or made aware of, information of a most confidential nature.

5. A substantial portion of the sales of railroad signaling equipment is represented by the sale and installation of railroad signaling and control systems. These systems or projects are frequently awarded on the basis of secret bids. Respondents General and Westinghouse have at various times prior hereto met, discussed and agreed upon prices which each would submit on particular bids requested by customers. In some instances respondents agreed not to submit bids or quotations. Such acts, practices and policies have effectively eliminated competition between respondents and have resulted in a division of markets and customers.

PAR. 6. Respondent General has formulated, directed and controlled the acts, practices and policies of Railroad Accessories Corporation, hereinafter referred to as RACO, a corporation organized and existing under the laws of the State of New York, with its office and place of business located at 5 Tenakill Park, Cresskill, New Jersey. This control has been exercised through stock ownership, stock options, and interlocking directors. Said interlocking directors resigned from the RACO Board of Directors during July 1962.

RACO is engaged in the manufacture and sale of maintenance of way equipment and signal accessories used on railroads and subways. Signal accessories include such items as lightning arresters, switches, fuse blocks, snow shields and equalizers used for protection of signal equipment against power surges.

RACO has been and is now in competition with respondents General and Westinghouse in the manufacture and sale of railroad signaling equipment. RACO does not engage in the installation of railroad signaling and control systems. Competition between RACO and respondents General and Westinghouse has been hindered, lessened, restricted, restrained and eliminated by respondent General which, in the exercise of its control, has designated the products to be manufactured by RACO and has acted, or otherwise caused RACO to fail or refuse to independently compete in the manufacture and sale of railroad signaling equipment.

PAR. 7. The acts and practices of the respondents, as hereinbefore alleged, have had and do have the effect of hindering, lessening, restricting, restraining and eliminating competition in the manufacture, sale, sale and installation of railroad signaling and control systems and railroad signaling equipment; have foreclosed markets and access to markets to competitors and potential competitors; have created and maintained in respondents a monopoly in the manufacture, sale, sale and installation of railroad signaling and control systems and railroad signaling equipment; are all to the prejudice of customers of respondents, to competitors of respondents, and to the public interest; and constitute unfair methods of competition and unfair acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

COUNT II

Alleging violation of Section 2(a) of the Clayton Act, as amended:

PAR. 8. Paragraphs One through Four of Count I hereof are incorporated by reference and made a part of the allegations in Count II herein.

PAR. 9. In the course and conduct of their business in commerce, respondents General and Westinghouse have sold, or offered for sale, railroad signaling and control systems and railroad signaling equipment to purchasers thereof, some of whom have been and are in competition with each other, and with customers of competitors of respondents. Said respondents have been and are now in competition with other corporations, partnerships, and individuals engaged in

the manufacture, sale, and sale and installation of railroad signaling and control systems and railroad signaling equipment.

PAR. 10. Respondents General and Westinghouse have been, for a period of many years, at least since 1948 and continuing to the present time, discriminating in price between different purchasers of their railroad signaling and control systems and railroad signaling equipment of like grade and quality by selling to some of their purchasers at substantially higher prices than to other of their purchasers. Said discriminations in price result from cumulative annual volume discounts which are allowed to purchasers pursuant to written contracts or other agreements and understandings.

Respondent General, pursuant to written contracts or other agreements and understandings with purchasers, has been and is now granting to its purchasers the following discounts on total purchases per calendar year:

	<i>Percent</i>
\$100,000 or less.....	5
Over \$100,000 but less than \$200,000.....	6
Over \$200,000 but less than \$300,000.....	7
Over \$300,000 but less than \$400,000.....	8
Over \$400,000 but less than \$500,000.....	9
Over \$500,000.....	10

Respondent Westinghouse, pursuant to written contracts or other agreements and understandings with purchasers, has been and is now granting to its purchasers the following discounts on total purchases per calendar year:

	<i>Percent</i>
Up to \$400,000.....	5
Over \$400,000.....	10

The aforesaid discounts granted by respondents General and Westinghouse are substantial enough to cause purchasers to buy all or substantially all of their requirements of said products from one respondent in order to qualify for the maximum discounts offered by that respondent.

PAR. 11. The effect of the discriminations in price between different purchasers of railroad signaling and control systems and railroad signaling equipment, as hereinbefore alleged, has been and may be substantially to lessen competition or tend to create a monopoly in the lines of commerce in which respondents are engaged, or to injure, destroy or prevent competition between respondents and their competitors. In addition, such discriminations in price have a dangerous tendency to hinder competition and to create or further a monopoly

in respondents in the manufacture, sale, sale and installation of railroad signaling and control systems and railroad signaling equipment.

PAR. 12. The foregoing alleged discriminations in price made by respondents General and Westinghouse are in violation of the provisions of Section 2(a) of the Clayton Act, as amended.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Restraint of Trade proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of Section 5 of the Federal Trade Commission Act and with violation of subsection (a) of Section 2 of the Clayton Act, as amended; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents that the law had been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondents have violated Section 5 of the Federal Trade Commission Act and subsection (a) of Section 2 of the Clayton Act, as amended, and having determined that complaint should issue stating its charges in those respects, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent General Railway Signal Company is a corporation organized and existing under the laws of the State of New York, with its principal office and place of business located at 801 West Avenue, Rochester 2, New York. Respondent General Railway Signal Company formulates, directs and controls the acts, practices and policies of Railroad Accessories Corporation, a corporation organized and existing under the laws of the State of New York, with its office and place of business located at 5 Tenakill Park, Cresskill, New Jersey.

Respondent Westinghouse Air Brake Company is a corporation organized and existing under the laws of the State of Pennsylvania, with its principal office and place of business located at 3 Gateway Center, Pittsburgh 22, Pennsylvania.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents General Railway Signal Company, a corporation; Westinghouse Air Brake Company, a corporation; and their respective officers, agents, representatives and employees, successors or assigns, directly, indirectly or through any corporate or other device, in connection with the manufacture, offering for sale, sale, distribution or sale and installation in commerce, as "commerce" is defined in the Federal Trade Commission Act, of railroad signaling and control systems or railroad signaling equipment, do forthwith cease and desist from entering into, cooperating in, carrying out or continuing any combination, conspiracy, understanding, agreement, planned common course of action or course of dealing between said respondents, or between any one or more of said respondents and any other person, persons or business entity not a party hereto, to do or perform any of the following acts, practices or things:

- (1) Establish, fix, maintain or agree upon prices, terms or conditions of sale;
- (2) Establish, fix, maintain or agree upon prices, terms or conditions of sale to be used in submitting bids or quotations to any purchaser or prospective purchaser;
- (3) Submitting collusive bids or quotations;
- (4) Bid or quote, refrain from bidding or quoting, or causing another to bid or quote or refrain from bidding or quoting to any purchaser or prospective purchaser;
- (5) Allocate or divide territories, markets, or customers;
- (6) Exchange, distribute or circulate any information concerning prices, discounts, allowances, terms or conditions of sale, bid, or any other pricing information of any nature whatsoever prior to such information becoming available to respondents' customers or to the public;
- (7) Manufacture, sell, or refrain from manufacturing or selling any railroad signaling and control systems or railroad signaling equipment.

It is further ordered, That respondents General Railway Signal Company, a corporation; Westinghouse Air Brake Company, a corporation; and their respective officers, agents, representatives and employees, successors or assigns, directly, indirectly or through any corporate or other device, in connection with the manufacture, offering for sale, sale, distribution or sale and installation in commerce, as

Decision and Order

66 F.T.C.

"commerce" is defined in the Federal Trade Commission Act, of railroad signaling and control systems or railroad signaling equipment, do individually and independently forthwith cease and desist from:

(1) Attending meetings other than bid openings at which any other respondent or vendor of railroad signaling and control systems or railroad signaling equipment are present, at which the prices, terms or conditions for the sale of railroad signaling and control systems or railroad signaling equipment are discussed;

(2) Attending meetings at which any other respondent or vendor of railroad signaling and control systems or railroad signaling equipment are present, at which the prices, terms or conditions for the sale of railroad signaling and control systems or railroad signaling equipment to be bid are discussed;

(3) Holding or participating in any discussions by telephone or otherwise with any other respondent or vendor of railroad signaling and control systems or railroad signaling equipment, pertaining to prices, terms or conditions of sale of railroad signaling and control systems or railroad signaling equipment;

(4) Sending to, requesting from, or exchanging with any other respondent or vendor of railroad signaling and control systems or railroad signaling equipment any information, written or oral, pertaining to prices, terms or conditions of sale of railroad signaling and control systems or railroad signaling equipment prior to such information becoming available to respondents' customers or to the public;

(5) Formulating or submitting any bid on railroad signaling and control systems or railroad signaling equipment to a purchaser or prospective purchaser the prices or terms and conditions of sale of which are based in any way upon information obtained in a manner prohibited by (1), (2), (3) or (4) above; and

(6) Entering into or utilizing contracts with purchasers whereby said purchasers are required to purchase all or any fixed percentage of their requirements of railroad signaling and control systems or railroad signaling equipment from any respondent; provided, however, that respondents may use such agreements when specifically requested by any governmental or quasi-governmental agency.

Provided, however, That:

(1) Nothing contained in the foregoing paragraphs of this Order shall apply to any transaction between a respondent and

its subsidiaries, agents, representatives or employees. For the purposes of this paragraph Railroad Accessories Corporation shall not be construed as a subsidiary of General Railway Signal Company.

(2) Nothing contained in the foregoing paragraphs of this Order shall be construed as prohibiting any respondent from entering into a bona fide offer, agreement or transaction with any other person, persons, or business entity to purchase or sell railroad signaling and control systems or railroad signaling equipment at prices, terms or conditions of sale independently determined and offered and independently accepted.

(3) Nothing contained in the foregoing paragraphs of this Order shall be construed as prohibiting any respondent from formulating or submitting a joint bid on railroad signaling and control systems or railroad signaling equipment with any other person, persons or business entity to any governmental or quasi-governmental agency if such joint bid is expressly requested by such purchaser and if such joint bid is expressly made known to such purchaser by the time of the official opening of the bid or the date of contract of sale, whichever is earlier, providing that, for a period of ten (10) years from the effective date of this Order any respondent submitting such a joint bid on railroad signaling and control systems or railroad signaling equipment shall notify the Commission of each such joint bid within thirty (30) days after the official opening of the bid or the date of the contract of sale, whichever is earlier.

It is further ordered, That respondents General Railway Signal Company, a corporation; and Westinghouse Air Brake Company, a corporation, shall forthwith:

(1) Cancel, nullify and refrain from renewing any contracts, agreements or understandings between said respondents which in any manner provide for the exchange of or the furnishing of names of customers or other sales information, or the exchange of plant, technical, cost, administrative or any other information of a confidential nature;

(2) Execute and deliver each to the other, to the extent, if any, that they have not heretofore done so, an unrestricted, non-exclusive, royalty-free license to make, have made, use, sell, lease or otherwise dispose of railroad signaling and control systems or railroad signaling equipment under, and for the full unexpired term of all of each respondent's United States patents unexpired as of August 31, 1962.

Decision and Order

66 F.T.C.

It is further ordered, That respondents General Railway Signal Company, a corporation, and Westinghouse Air Brake Company, a corporation, individually and independently shall grant to any domestic applicant making written request therefor an unrestricted, non-exclusive license to make, have made, use, sell, lease or otherwise dispose of railroad signaling and control systems or railroad signaling equipment under, and for the full unexpired term of any of each respondent's United States patents, as may be requested by said applicant.

Any license granted pursuant hereto shall be unrestricted except as hereinafter provided:

- (1) The license may be nontransferable;
- (2) A reasonable royalty may be charged, which royalty shall be nondiscriminatory as among royalty-paying licensees procuring the same rights under the same patents, provided that the royalty charged an applicant who grants in exchange a patent license to a respondent may reflect the fair value of such license;
- (3) Reasonable provision may be made for periodic royalty reports by the licensee and inspection of the books and records of the licensee by an independent auditor, an independent engineer or any person acceptable to both licensor and licensee, who shall report to the licensor only the amount of the royalty due and payable;
- (4) The license may require the licensee properly to affix appropriate statutory patent notices;
- (5) Reasonable provision may be made for cancellation of the license upon failure of the licensee to make the reports, pay the royalties, permit the inspection of his books and records, or affix the statutory patent notices as hereinabove provided; and
- (6) The license must provide that the licensee may cancel the license in whole or as to any specified patents at any time after one year from the initial date thereof by giving thirty (30) days notice in writing to the licensor.

Provided, however, That:

Nothing contained herein shall prevent any applicant or licensee from attacking in any manner the validity or scope of any patent required to be licensed by the provisions of this Order nor shall this Order be construed as importing any validity or value to any of said patents.

It is further ordered, That respondents General Railway Signal Company, a corporation; Westinghouse Air Brake Company, a corporation; and their respective officers, agents, representatives and em-

ployees, individually and collectively, refrain from making any assignment, sale or other disposition of any of the patents required to be licensed pursuant to the provisions of this Order which would deprive said respondents of the power or authority to license such patents unless said respondents sell, transfer or assign such patents upon the condition that the purchaser, transferee or assignee shall observe the requirements of this Order so far as they pertain to such patents; provided however, that said respondents may donate, assign or dedicate any such patent, or patents, to the general public in lieu of the licensing requirements of this Order.

It is further ordered, That respondents General Railway Signal Company, a corporation, and Westinghouse Air Brake Company, a corporation, shall each in respect to any patent licensed by it to any licensee pursuant to this Order, furnish at cost to such licensee upon his request a full, clear, concise and exact written description of the invention disclosed in such patent, and of the manner and process of making and using it, sufficient to enable a person reasonably skilled in the manufacture of railroad signaling and control systems or railroad signaling equipment to make and use the invention.

It is further ordered, That respondents General Railway Signal Company, a corporation, and Westinghouse Air Brake Company, a corporation, shall forthwith file with the Commission in writing a listing of each of the patents required to be licensed by the provisions of this Order, identifying each by patent number, inventor's name, and title of patent.

It is further ordered, That respondents General Railway Signal Company, a corporation, and Westinghouse Air Brake Company, a corporation, shall, for a period of ten (10) years after service of this Order upon them, cease and desist from:

(1) Selling, or offering for sale, to each other railroad signaling and control systems or railroad signaling equipment, at prices, discounts or terms and conditions of sale not available to other competing vendors of such products;

(2) Selling, or offering for sale, to each other railroad signaling and control systems or railroad signaling equipment not available to other vendors of such products; and

(3) Granting to each other licenses under future United States patents covering railroad signaling and control systems or railroad signaling equipment unless licenses on similar terms and conditions are available to other vendors of such products.

It is further ordered, That respondent General Railway Signal Company, a corporation, and its officers, agents, representatives and

employees, shall, within one year after service upon it of this Order, divest itself absolutely, in good faith, of all stock, assets, properties, rights and privileges, tangible or intangible, of Railroad Accessories Corporation. Pending divestiture, General Railway Signal Company shall not make any changes in the plants, machinery, buildings, equipment or other property of Railroad Accessories Corporation which shall impair its present capacity for the manufacture, sale and distribution of railroad signaling and control systems or railroad signaling equipment.

General Railway Signal Company in such divestiture shall not sell or transfer, directly or indirectly, any of the stock, assets, properties, rights or privileges to any one who, at the time of such divestiture, is a stockholder or officer, director, representative, employee, or who is connected with, or under the control or influence, directly or indirectly, of General Railway Signal Company or Westinghouse Air Brake Company.

It is further ordered, That respondent General Railway Signal Company may, in lieu of the divestiture provisions of the preceding paragraph, transfer to an independent Voting Trustee, which shall not be under the direct or indirect control, domination or influence of General Railway Signal Company, all of the capital stock of Railroad Accessories Corporation as is presently held by General Railway Signal Company or may be acquired by it within one year after service upon it of this Order under any now outstanding option, or at any time thereafter by receipt of stock dividends or exercise of preemptive rights; and respondent General Railway Signal Company shall maintain in existence the voting trust so created, or a successor thereof, so long as General Railway Signal Company shall continue to hold any of the outstanding capital stock of Railroad Accessories Corporation.

Said Voting Trustee shall have full independent discretion to vote the trustee stock and respondent General Railway Signal Company and its officers, agents, representatives and employees may not consult, advise or otherwise participate in any manner except as to any decision relating to the merger or consolidation of Railroad Accessories Corporation with another corporation, or the sale of said trustee stock, or the sale of all or substantially all of the assets of Railroad Accessories Corporation, or in the event of the appointment of a successor Voting Trustee. Respondent General Railway Signal Company and its officers, agents, representatives and employees shall not acquire additional stock in Railroad Accessories Corporation other than as heretofore provided, and any sale of said trustee stock shall be subject to the provisions of the preceding paragraph of this Order.

882

Order

It is further ordered, That respondents General Railway Signal Company, a corporation; Westinghouse Air Brake Company, a corporation; and their respective officers, agents, representatives and employees, successors or assigns, directly, indirectly or through any corporate or other device, in connection with the manufacture, offering for sale, sale, distribution, sale and installation in commerce, as "commerce" is defined in the Clayton Act, of railroad signaling and control systems or railroad signaling equipment, do forthwith cease and desist from:

- (1) Granting any annual or other cumulative volume discount;
- (2) Entering into or maintaining any contract or agreement providing for any of the discounts prohibited by (1) above.

It is further ordered, That each of the respondents shall, within sixty (60) days after the service of this Order upon them, file with the Commission a report in writing setting forth in detail the manner and form in which each has complied with this Order.