policy, but that the committee was merely a sounding board for announcements of company policy. President Bosustow also testified that when he joined the Association he "felt he was retaining someone to help" negotiate for him and that the Employer desired to continue its bargaining on a multiemployer basis.

It is well settled that an employer's inclusion in a multiemployer unit is based upon the employer's intent to be so bound, and that such intent is generally evidenced by past participation in group bargaining.[5] In the instant case, the Employer's relationship with the Labor-Management Committee after it joined the Association appears at times to have been somewhat inconsistent with the concept of multiemployer bargaining. However, from all the circumstances, especially the Employer's active participation in the negotiations on a multiemployer basis since joining the Association, his subscription to all the contracts therein negotiated, and his unequivocally announced intention at the hearing to continue bargaining on such a basis, we find that the Employer has shown an intent to be bound by group rather than individual action in his collective bargaining. Accordingly, as the unit sought by the Petitioner is limited to the Employer's cartoonists it is inappropriate.[6] We shall therefore dismiss the petition.

[The Board dismissed the petition.]

[5] See, for example, *Martinolich Shipbuilding Co*, 108 NLRB 179.

[6] *Sanitary Mattress Company, Rest Lane of California, Inc.*, 109 NLRB 1010. In finding the Petitioner's unit request inappropriate, we also attach some weight to the fact that the Petitioner itself acknowledged the Employer's membership in the Association by participating in the 1950 Associationwide bargaining negotiations, and by its participation in the 1951 Associationwide election.

ALLIS-CHALMERS MANUFACTURING COMPANY (LA PORTE WORKS) *and* GENERAL TEAMSTERS, CHAUFFEURS AND HELPERS UNION, LOCAL NO. 298. *Case No. 13–RC–3832. January 31, 1955*

Decision and Certification of Representatives

Pursuant to a "Stipulation for Certification Upon Consent Election," executed on March 22, 1954, and approved by the Regional Director on April 5, 1954, an election by secret ballot was held on April 14, 1954, under the direction and supervision of the Regional Director for the Thirteenth Region among the employees in the stipulated unit. Upon the conclusion of the election, a tally of ballots was furnished the parties. The tally shows that of approximately 2,153 eligible voters, 290 ballots were cast for the Petitioner, 229 for District 72, International Association of Machinists, AFL, and 1,358 ballots were cast for Local 119, United Farm Equipment and Metal Workers, UE.

Thereafter, the Petitioner filed objections to conduct affecting the results of the election. The Acting Regional Director investigated the objections and issued and duly served upon the parties a report on objections. The report recommended that 3 of the 4 objections be overruled, and as to the fourth, which related to the noncompliance of District 9 and District Council 9, UE, with the filing requirements of Section 9 (f), (g), and (h) of the Act on the date of the election, that it be referred to the Board to determine whether, on the basis of the record in *The Magnavox Company*, Case No. 13–RM–200, District 9 and District Council 9, UE, are labor organizations within the meaning of the Act and whether their noncompliance should void the election. No exceptions to the report on objections have been filed.

The Board has considered the objections, the report on objections, the entire record in this case, and in *The Magnavox Company* (Case No. 13–RM–200), 111 NLRB 379, and hereby makes the following findings:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

2. The labor organizations involved claim to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of employees of the Employer, within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

4. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All production and maintenance employees at the Employer's La Porte Works, La Porte, Indiana, excluding draftsmen, technical engineers, experimental employees, office clerical employees, nurses, supervisory employees, and individuals classified as superintendents, assistant superintendents, general foremen; foremen and assistant foremen; time-study men; timekeepers (but not shop clerks); apprentices in trades in which journeymen are not included in the bargaining unit; graduate student apprentices; watchmen and guards; salaried employees; and all other employees who act directly or indirectly in the interest of the Company in an executive, administrative, or professional capacity.

5. In *The Magnavox Company* case,[1] the Board decided that District 9 and District Council 9, UE, are not labor organizations within the meaning of the Act and are not therefore required to comply with the requirements of Section 9 (f), (g), and (h) of the Act. Accordingly, the objection directed to the noncompliance of District 9 and District Council 9, UE, is without merit.

[1] *The Magnavox Company*, 111 NLRB 379.

As the Petitioner's objections to the election do not raise substantial and material issues with respect to the conduct or the results of the election, they are hereby overruled.

Local 119, United Farm Equipment and Metal Workers, UE, has won the election. We shall therefore certify it as bargaining representative of the employees in the appropriate unit.

[The Board certified Local 119, United Farm Equipment and Metal Workers, UE, as the designated collective-bargaining representative of the employees of Allis-Chalmers Manufacturing Company, at its La Porte, Indiana, plant, in the appropriate unit.]

MEMBER RODGERS took no part in the consideration of the above Decision and Certification of Representatives.

M. B. MORGAN, D/B/A M. B. MORGAN PAINTING CONTRACTOR *and* G. J. MCDANIELS

BROTHERHOOD OF PAINTERS, DECORATORS AND PAPERHANGERS OF AMERICA, LOCAL 902, AFL *and* G. J. MCDANIELS. *Cases Nos. 33–CA–220 and 33–CB–34. February 1, 1955*

Decision and Order

On October 13, 1953, Trial Examiner James R. Hemmingway issued his Intermediate Report in the above-entitled proceeding, finding that the Respondents had engaged in and were engaging in certain unfair labor practices and recommending that they cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the Respondent Union filed exceptions to the Intermediate Report.

The Board has reviewed the rulings of the Trial Examiner made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the Respondent Union's exceptions, and the entire record in this case and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.[1]

Order

Upon the entire record in these cases, and pursuant to Section 10 (c) of the National Labor Relations Act, as amended, the National

[1] After the close of the hearing in these cases, the Board received a stipulation by the parties that the Company, a painting contractor, performed over $50,000 in services outside the State of New Mexico (where its headquarters are located) during 1953. We find that the Company is engaged in commerce and that it will effectuate the policies of the Act to assert jurisdiction herein. *Jonesboro Grain Drying Cooperative,* 110 NLRB 481.