Saskatchewan
Labour Relations Board

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 2038, UNITED ASSOCIATION OF JOURNEYMAN & APPRENTICES OF THE PLUMBING & PIPEFITTING INDUSTRY OF THE UNITED STATES AND CANADA, LOCAL 179 and INTERNATIONAL ASSOCIATION OF HEAT & FROST INSULATORS AND ASBESTOS WORKERS, LOCAL 119, Applicants

- and -

THE CONSTRUCTION LABOUR RELATIONS ASSOCIATION OF SASKATCHEWAN INC., Applicant

v

INTERNATIONAL ASSOCIATION OF BRIDGE, STRUCTURAL, ORNAMENTAL, AND REINFORCING IRONWORKERS, LOCAL 771, Respondent

- and -

IRONCLAD METALS INC., Respondent

LRB File Nos. 146-18 & 147-18; March 14, 2019
Vice-Chairperson, Barbara Mysko; Board Members Ken Ahl and Jim Holmes

For the Applicants, Electrical Workers, Plumbers & Pipefitters, and Heat & Frost:	Mr. Greg D. Fingas
For the Applicant, CLR	Ms. Anna Maria Moscardelli
For the Respondent Iron Workers:	Mr. Derrill Thompson
For the Respondent Ironclad Metals	Mr. Larry F. Seiferling, Q.C.

Practice and Procedure – Notice of Certification Application properly given by Registrar's office to potentially interested persons as authorized by *The Saskatchewan Employment (Labour Relations Board) Regulations*, section 20.

Intervenors – Applicants seek standing to intervene in Certification Application – Board finds applicants do not meet the tests for direct interest or exceptional intervenor status – Board determines that Certification Application engages issues of public law – Board finds that applicants meet the test for public interest intervenor status.

REASONS FOR DECISION

[1] **Barbara Mysko, Vice-Chairperson**: The Board provides these reasons for decision on two Applications to Intervene in a Certification Application.

[2] On June 20, 2018, the International Association of Bridge, Structural, Ornamental and Reinforcing Ironworkers, Local 771 ("Local 771") filed an Application for Bargaining Rights with the Saskatchewan Labour Relations Board (the "Board") for a unit of employees of Ironclad Metals Inc. (the "Employer") described as follows:

> *All Employees of Ironclad Metals Inc, in the province of Saskatchewan, except supervisors, office staff and management personal [sic] ("the Certification Application")*

[3] Later on June 20, 2018, the Registrar's office provided copies of the Union's application to the CLR Construction Labour Relations Association of Saskatchewan Inc. ("CLR") and various building trade unions.

[4] The Employer filed a reply to the Certification Application, dated July 26, 2018 indicating that it did not oppose the application by Local 771. On June 22, 2018, the Board issued a Direction for Vote pursuant to section 6-12 of *The Saskatchewan Employment Act.*

[5] On July 6, 2018, the IBEW Local Union 2038, the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Local 179, and the International Association of Heat & Frost Insulators and Asbestos Workers, Local 119 (the "Proposed Union Intervenors") filed an Application to Intervene in the Certification Application. CLR filed an Application to Intervene on the same date.

[6] The Proposed Union Intervenors are each designated bargaining agents for a trade division in the construction industry. CLR is the designated Representative Employers' Organization ("REO") for the Ironworker Trade Division.

[7] Local 771 and the Employer each filed a Reply, opposing the Applications to Intervene.

[8] At a motions day appearance in December 2018, it was determined the Applications to Intervene would be decided on the basis of written material. Written briefs and copies of case law were filed by Local 771, the Proposed Union Intervenors, and CLR. Local 771 filed a reply to the

intervention application on June 24, 2018. The Employer did not file a Brief but provided brief submissions in its Reply to Intervention.

[9] These two (2) applications came before a panel of this Board comprised of Members Ken Ahl, Jim Holmes and myself, as Vice-Chairperson. The Board has reviewed all of the briefs and accompanying authorities filed by the parties and has found them helpful.

[10] The intervention applications must be considered in light of the underlying Certification Application. The Certification Application represents the first time that a building trades union, and designated participant in the registration system, has sought an all-employee certification in the construction industry in Saskatchewan.

Argument on Behalf of the Parties:

A) Preliminary Issue: Notice by Board

[11] Local 771 raises a preliminary issue, arguing that the Registrar exceeded its jurisdiction by providing copies of the Certification Application to the applicants, among others. The bases of Local 771's argument are: (1) the applicants do not have a direct interest in the Certification Application; and (2) *Saskatchewan Building Trades Council v Construction Workers Union, CLAC Local 15,* 2018 CanLII 38251 (SK LRB) ("*Saskatchewan Building Trades"*) was wrongly decided.

[12] Local 771 acknowledges that its objection has limited, if any, remedy due to the Applications for Intervention having already been filed. Despite this, Local 771 asks the Board to comment on the Registrar's practice to ensure that it does "not occur in the future".

Relevant Statutory Provisions

[13] The following provisions of *The Saskatchewan Employment (Labour Relations Board) Regulations* are relevant:

> ***Registrar to provide copies of applications***
> *19 On the filing of an application mentioned in Part II, the registrar shall:*
>
> > *(a) make efforts that the registrar considers reasonable to determine the identity of any employer, other person, union and labour organization that is referred to in the application or has a direct interest in the application; and*
> > *(b) provide a copy of the application to the employers, other persons, unions and labour organizations identified pursuant to clause (a).*

Intervention

20(1) In this section:

(a) "application to intervene" means an application in Form 17 (Application to Intervene);

(b) "original application" means an application made to the board pursuant to the Act and these regulations that is the subject of an application to intervene.

(2) An employer, other person, union or labour organization that is served with a copy of an application pursuant to section 19 and intends to intervene in the proceedings before the board shall file a reply in Form 18 (Reply).

(3) An employer, other person, union or labour organization that is not served with a copy of an application pursuant to section 19 and that intends to intervene in the proceedings before the board shall file an application to intervene.

(4) All replies and applications to intervene must be filed within 10 business days after the date a copy of the original application was given to the employer, person, union or labour organization by the registrar.

(5) The registrar shall provide a copy of every reply and every application to intervene to:

(a) the party that filed the original application;

(b) in the case of an application to intervene, any other party that filed a reply; and

(c) any other employer, person, union or labour organization that is directly affected by the application to intervene.

[14] The following provisions of *The Saskatchewan Employment Act* apply:

Determination of bargaining unit

6-11(1) If a union applies for certification as the bargaining agent for a unit or a portion of a bargaining unit or to move a portion of one bargaining unit to another bargaining unit, the board shall determine:

(a) if the unit of employees is appropriate for collective bargaining;

…

(2) In making the determination required pursuant to subsection (1), the board may include or exclude persons in the unit proposed by the union.

. . .

(7) In making the determination required by subsection (1) as it relates to the construction industry within the meaning of Division 13, the board shall:

(a) make no presumption that a craft unit is the more suitable unit appropriate for collective bargaining; and

(b) determine the bargaining unit by reference to whatever factors the board considers relevant to the application, including:

(i) the geographical jurisdiction of the union making the application; and

(ii) whether the certification order should be confined to a particular project.

…

6-112 (4) Without limiting the generality of subsections (2) and (3), in any proceedings before it, the board may, on any terms that it considers just, order that the proceedings be amended:

(a) by adding as a party to the proceedings any person that is not, but in the opinion of the board ought to be, a party to the proceedings;

Analysis

A) Preliminary Issue: Notice by Board

[15] The first issue to be addressed is the preliminary objection raised by Local 771, suggesting that the Registrar exceeded its jurisdiction in providing notice of the Certification Application to the applicants. The Board has considered this objection and decided that it has no merit.

[16] In *Saskatchewan Building Trades*, the Board provided a full answer to this issue. There, the Union argued that section 19 of *The Regulations* permits the Registrar to provide notice only to a party having a "direct interest" in the application. The Union had not considered the effect of section 20 of *The Regulations*.

[17] The Board found that subsections 20(3) and (4) of *The Regulations* contemplate that the Registrar has discretion to provide a copy of an application to persons who do not have a direct interest, and confirmed that providing such notice is not a new practice in Saskatchewan. The Board cited *Saskatchewan Joint Board, Retail, Wholesale and Department Store Union v 617400 Saskatchewan Limited (Sobeys)*, 2006 CanLII 62956 (SK LRB), in which the Board had observed that the Registrar's standard practice was to give notice to several organizations and unions in the construction industry.

[18] In objecting to the Registrar's practice, Local 771 raises a rule of statutory interpretation, referred to as "*generalia specialibus non derogant*", or the implied exception rule. Ruth Sullivan describes the rule as follows:

> *When two provisions are in conflict and one of them deals specifically with the matter is question while the other has a more general application, the conflict may be resolved by applying the specific provision to the exclusion of the more general one. […] In the absence of conflict, a specific provision prevails over a general one only if applying the general provision would render the specific one superfluous.*[1]

[19] The first problem with Local 771's reliance on this rule is that there is no conflict to resolve. Section 19 provides for circumstances in which the Registrar shall provide a copy of an application to employers, other persons, unions and labour organizations with a direct interest. Section 20 contemplates that the Registrar has further discretion to provide a copy of an application to those who may not have a direct interest. One provision outlines the circumstances in which notice is

[1] Ruth Sullivan, *Sullivan on the Construction of Statutes*, 6th ed. (Markham: LexisNexis Canada, 2014) at 363-4.

mandatory. The other contemplates a further discretion. There is nothing in either of these provisions, or *The Regulations* as a whole, to suggest that the Registrar cannot provide notice in circumstances other than when a direct interest is engaged.

[20] The second problem with Local 771's reliance on this rule is that neither provision is rendered superfluous through the application of the other. The notice requirements are not rendered superfluous by the Registrar having additional discretion. The mandatory notice provision serves a specific function, and that function remains intact.

[21] In response to Local 771's objection, the Proposed Union Intervenors ask this Board to comment on general matters, for example, whether the manner of notice is relevant to the merits of a dispute and whether the giving of notice is an efficient use of resources. The Board finds that it is unnecessary to make general pronouncements in the manner suggested, and so declines this request.

[22] The Board has no reason to depart from *Saskatchewan Building Trades*, in which the Board found that section 20 contemplates a discretion for the Registrar to provide a copy of an application to persons who do not have a direct interest in the application. Local 771 has not requested any remedy in relation to this issue, nor is one available.

B) Applications for Intervention

[23] CLR seeks standing on the basis of all three forms of intervention: direct interest, exceptional, and public interest. The Proposed Union Intervenors seek standing on the basis of the latter two categories.

[24] In *C.E.P. v J.V.D. Mill Services,* [2010] SLRBD No. 27, 199 CLRBR (2d) 228 ("*JVD Mill Services No.1*"), the Board confirmed its approach to granting intervenor status in cases before the Board. As the Board explains, an order granting intervenor status is a discretionary order based on the Board's assessment of the fairness to the parties and the potential for the proposed intervenors to assist the Board in coming to a decision.

[25] The Board endorses the following comments made in *Construction Workers Union, CLAC Local 151 v Ledcor Industrial Limited*, 2018 CanLII 53123 (SK LRB) ("*Ledcor*"):

> *[20] By definition, an intervenor is a stranger to on-going litigation before an administrative tribunal or a court. As such, allowing such a party to participate in the*

> *litigation, especially private litigation, is an unusual, if not an extraordinary, occurrence. It is precisely for this reason that applications to intervene must be carefully scrutinized, and when deciding them this Board should exercise its discretion to grant intervenor standing sparingly, mindful of the particular factual matrix of the case under consideration.*

[26] Generally, the Board will allow only the original parties to define the issues that come before the Board. Intervention applications must be carefully scrutinized so as to avoid any unnecessary impact on the efficient and fair adjudication of the *lis*. In *Construction Workers Union (CLAC), Local 151 v Tercon Industrial Works Ltd*, 2012 CanLII 2145 (SK LRB), at paragraph 31, the Board provides a detailed summary of the approach set out in *JVD Mill Services No.1*:

> *In J.V.D. Mill Services #1, supra, this Board clarified its general approach to the granting of intervenor status in proceedings before the Board. In doing so, the Board reiterated the long standing principle that the granting of standing as an intervenor in any proceedings before the Board is a matter of discretion and that, generally speaking, the Board exercises its discretion based on the circumstances of each case, considerations of fairness (to the party seeking standing) and/or the potential for the party seeking standing to assist the Board (by making a valuable contribution or by providing a different perspective) without doing injustice to the other parties. The Board went on to identify and adopt three (3) forms of intervention recognized by this Board[6]. These three (3) forms of intervention are summarized as follows:*
>
> > *1. **A Direct Interest Intervenor**; where the applicant seeking standing has a direct interest in the answer to the legal question in dispute in that it has legal rights or obligations that may be directly affected by the determinations of the Board.*
> >
> > *2. **An Exceptional Intervenor**; where the applicant has a demonstrable and genuine interest in the answer to the legal question in dispute (i.e.: for example, if the party has a pending application before the Board on the same issue and thus has legal rights or obligations that may be affected by a binding precedent); and the applicant can establish the existence of "special circumstances" that differentiate it from others who may have a similar interest; and where that party can demonstrate that it can provide a valuable assistance to the Board in considering the issues before it.*
> >
> > *3. **A Public Law Intervenor**; where the applicant has no legal rights or obligations that may be affected by the answer to the legal question in dispute, but can satisfy the Board that its perspective is different or that its participation would assist the Board in considering a public law issue before it.*

[27] The Board has followed these principles on many occasions, including: *Saskatchewan Building Trades Council v Construction Workers Union*, CLAC Local 15, 2018 CanLII 38251 ("*Saskatchewan Building Trades Council*"); *Construction Workers Union, CLAC Local 151 v The International Association of Heat & Frost Insulators and Asbestos Workers, Local 119*, 2018 CanLII 127663*; Construction Workers Union, CLAC Local 151 v Ledcor Industrial Limited*, 2018

CanLII 53123 ("*Ledcor*"); and *United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial v International Brotherhood of Electrical Workers*, *Local 2038*, 2017 CanLII 6027.

Direct Interest Intervenor – CLR:

[28] CLR seeks an order granting intervenor status on the basis of direct interest intervention. In support of its application, CLR states that the Certification Application raises an issue that this Board has not previously decided. That issue is whether a union that is designated under a ministerial order can apply for a certification of an all-employee bargaining unit in the construction industry.

[29] CLR states that the Board is obliged to consider the entirety of Division 13 of *The Saskatchewan Employment Act*, including section 6-64, to determine whether the proposed unit is appropriate. CLR states that this issue is "live and novel", is directly relevant to CLR's legal rights and obligations, and raises concerns about the stability of the bargaining system maintained through the operation of the ministerial designation system (which it refers to as the registration/accreditation system).

[30] CLR must show that it "has a direct interest in the answer to the legal question in dispute in that it has legal rights or obligations that may be directly affected by the answer".[2] CLR may be "keenly interested in the outcome"[3] of this application, but it cannot be said that it has a direct interest. It does not have legal rights or obligations that will be directly affected by the answer.

[31] To quote the Board in *J.V.D. Mill Services (Re)*, [2011] SLRBD No 21, 199 CLRBR (2d) 241, at paragraph 60, "[t]he Applicants [sic] rights are not affected by the certification decision. No legal obligations are imposed upon them by the Order or decision. Nor are they prejudicially affected directly." Likewise, CLR does not have a direct stake in the *lis* between the parties in the underlying Certification Application.

[32] CLR states that the precedent in this case could "affect the CLR not only as the REO for the Ironworkers Trade Division, but also as the REO in 15 other trade divisions within which the CLR represents unionized employers". That may be true but the potential for a "bad precedent" is not a sufficient basis for a direct interest intervention. As the Board stated in *Ledcor*, at

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[2] *JVD Mill Services No. 1* at para 13.

[3] See, *Construction Workers Union, CLAC Local 151 v The International Association of Heat & Frost Insulators and Asbestos Workers, Local 119*, 2018 CanLII 127663 at para 12.

paragraph 25, the "fact that a proposed intervenor may have a similar case pending before the tribunal or court in question, does not mean it should be granted intervenor status in an unrelated matter". Similarly, the fact that a proposed intervenor may be impacted by the case before the Board does not mean that it should be granted direct interest intervenor status.

[33] In summary, the Board finds that CLR should not be granted status to intervene as a direct interest intervenor.

Exceptional Intervenor – General:

[34] The Board has repeatedly articulated the test for exceptional intervenor status, which may be summarized as follows:[4]

(a) the applicant must have a demonstrable and genuine interest in the answer to the legal question in dispute;

(b) the applicant can establish the existence of "special circumstances" that differentiate it from others who may have a similar interest; and

(c) the applicant can demonstrate that it can provide a valuable assistance to the Board in considering the issues before it.

[35] As may be obvious, the Board grants exceptional intervenor status on an "exceptional" basis. As explained in *JVD Mill Services No. 1*, at paragraph 22, "'exceptional' requires that there be some additional factor or factors that the proposed intervenor can demonstrate in order for it to be accorded standing in the matter." The granting of status on this basis should be done sparingly.

[36] As with the other intervenor categories, the granting of exceptional intervenor status is discretionary. This Board observes that, as an intermediate category with an under-developed theoretical basis, exceptional status has the potential to become overly expansive. The Board must exercise its discretion with due consideration for the timely adjudication of disputes and available resources.

[4] See, for example, *Construction Workers Union, Local 151 v Tercon Industrial Works Ltd,* 2012 CanLII 2145 (SK LRB) at para 31; *Saskatchewan Building Trades*, *supra*, at para 25.

Exceptional Intervenor - CLR:

[37] A key question is whether there are circumstances that differentiate the applicant from all others with a similar interest. The Board acknowledges CLR's significant and historical involvement with the system, but does not agree that this amounts to special circumstances justifying CLR's intervention on an exceptional basis. Significant involvement does not equate to exceptional circumstances.

[38] This Board has stated that exceptional intervenor status may be granted where an applicant has a pending application before the Board on the same issue and thus has legal rights or obligations that may be affected. CLR does not have a pending application before the Board on the same issue. In fact, CLR's role in labour relations begins after certification and not before.

[39] Given these observations, it is not necessary for this Board to consider the third stage of the test. CLR does not meet the test for exceptional intervenor status in this matter.

Exceptional Intervenor - The Proposed Union Intervenors:

[40] The Proposed Union Intervenors state that their interest arises out of three primary factors. First, the Proposed Union Intervenors represent trade divisions under Division 13 of Part VI of *The Saskatchewan Employment Act* and are subject to ministerial designations. Second, they supply labour to unionized employers in a trade division through a hiring hall system. Third, the Proposed Union Intervenors depend on the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the "Plan"). For all of these reasons, they state that they stand to be directly affected by the Board's policy related to all-employee units.

[41] The Proposed Union Intervenors do not specifically address the special circumstances that differentiate them from others with similar interests. They have not satisfied the Board that they are exceptional among other building trade unions that are subject to ministerial designations. Therefore, the Proposed Union Intervenors have not met the test for exceptional interest intervention.

Public Law Intervenor – General:

[42] The Board may grant public law intervenor status when it is satisfied that the applicant's participation has the potential to assist the Board in considering a public law issue before it. An

intervenor has the potential to assist the Board by making a valuable contribution or providing a different perspective.

[43] Public law standing "is premised on a finding that there is a 'public' law aspect to the dispute, giving it significance beyond its immediate parties[.]"[5] The Board agrees with the applicants that there is a public law aspect to the present dispute. The applicants have raised concerns with the continuing stability of the registration system and the operation of the Plan for resolving jurisdictional disputes. It is clear that these are public law issues with significance beyond the immediate parties.

[44] Furthermore, this the first case in which a craft union, subject to a Ministerial Order, has applied for an all-employee bargaining unit in the construction industry in Saskatchewan. This Board has exercised a certain flexibility in granting intervenor status in matters that have the potential to break new ground.

[45] In determining whether to grant intervenor status, this Board considers the factors outlined in *R v Latimer (1995)*, 128 Sask R 195, 1995 CanLII 3921 (SK CA) ("*Latimer*"), which have been summarized as follows:

1. Whether the intervention will unduly delay the proceedings;
2. Whether there is possible prejudice to the parties if the intervention is granted;
3. Whether the intervention will widen the *lis* between the parties;
4. The extent to which the position of the intervenor is already represented and protected by one of the parties; and
5. Whether the intervention will transform the court into a political arena.

Public Law Intervenor – CLR:

[46] Addressing each of the *Latimer* principles in turn, the first principle is whether the intervention will unduly delay the proceedings. The Board notes that CLR filed its Application for

[5] Sheila M. Tucker and Elin R.S. Sigurdson, "Interventions in British Columbia: Direct Interest, Public Law & "Exceptional" Intervenors" (2010), 23 CJALP 183, as cited by the Board in *Construction Workers Union, CLAC Local 151 v Ledcor Industrial Limited*, 2018 CanLII 53123 (SK LRB) at para 30.

Intervention on July 6, 2018, approximately two (2) weeks after Local 771 filed its Certification Application. This time period is equivalent to the time period in *Saskatchewan Building Trades*.

[47] CLR states that it intends to call only "evidence where needed in support of its position", it does "not intend to duplicate evidence or argument", and it will make only those submissions that "reflect on its unique position". The Board observes, however, that CLR's own description of its evidence is quite broad.

[48] With respect to the second principle, the possible prejudice to the parties, CLR states that it will "make reasonable efforts to work with the parties to set dates that are convenient to them". The Board notes that the applicants have agreed to have this preliminary matter decided through written submissions and without the necessity of a hearing. While an intervention always poses potential prejudice to the original parties, this needs to be weighed against the potential for assistance to the Board.

[49] With respect to the third principle, the Board agrees that the intervention will not widen the *lis* between the parties. CLR, as proposed intervenor, has not suggested that it will raise new facts other than those that relate to the broader policy questions. The appropriateness of the bargaining unit is directly in issue on the Certification Application. The Board regularly considers the purpose of the legislation and the overall policy objectives of the Board in its decisions.

[50] With respect to the fourth principle, the position of CLR is not already represented by one of the parties. Local 771 states that the Board has already dealt with the question of allowing all-employee units in the construction sector, and that this should be considered settled law. The Employer states that an all-employee unit is appropriate for collective bargaining. The Employer says further that there is nothing in Division 13 that prevents a building trade union from applying for certification outside of that Division. As these arguments make clear, neither party to the Certification Application proposes to represent CLR's concerns.

[51] With respect to the fifth principle, the intervention would not transform the Board hearing into a political arena. Certainly, CLR proposes to make submissions that are policy-based, but as an administrative tribunal this Board must interpret the law in accordance with the overriding objectives of the Act. The Board must also take into account the broader labour relations environment impacted by its decisions. The Board is satisfied that CLR will confine itself to matters of law in its submissions.

Public Law Intervenor – The Proposed Union Intervenors:

[52] Turning to the Proposed Union Intervenors, the first *Latimer* factor is whether the intervention will unduly delay the proceedings. The Proposed Union Intervenors filed their application to intervene on the same date as CLR. They indicate that they do not propose to delay any proceedings and will also make reasonable efforts to work with dates that are convenient to the parties.

[53] On the issue of possible prejudice, the Proposed Union Intervenors propose to "call only minimal evidence as required to supplement that called by the primary parties". They state further that they "do not intend to duplicate" existing evidence and "will only make arguments which reflect their own distinct perspective and are relevant" to the issues.

[54] The Proposed Union Intervenors say that their intervention will not widen the *lis* between the parties. As previously stated, the appropriateness of the bargaining unit is directly in issue on the Certification Application. The Board agrees that the intervention of these applicants will not widen the *lis*.

[55] The Proposed Union Intervenors have withdrawn that portion of their Application that raises the "build-up" principle. It is therefore unnecessary to consider whether the proposed evidence and argument in relation the "build-up" principle would widen the *lis*.

[56] In relation to the fourth factor, the position of the Proposed Union Intervenors is not already represented by one of the parties. They raise the potential for unintended consequences in relation to the trade division bargaining structure in the construction industry and the current Plan for resolving jurisdictional disputes. Neither Local 771 nor the Employer raise either of these policy concerns.

[57] In relation to the fifth factor, the intervention would not transform the Board hearing into a political arena. The cited policy concerns are not political in the sense contemplated in *Latimer*. Furthermore, the Board is satisfied that the Proposed Union Intervenors will confine themselves to matter of law in their submissions.

[58] Weighing these factors against the interests of the parties, the resources of the Board, and the importance of promoting the timely resolution of disputes, the Board is satisfied that CLR and the Proposed Union Intervenors should be granted public law intervenor standing in this case.

[59] On a final note, the Board notes the breadth of CLR's proposed evidence as described in its brief. The Board has decided to allow CLR to call evidence, but within the parameters set out in the Order. Furthermore, the Board wishes to remind the Intervenors of their responsibility to present factual, reliable evidence that assists the Board in determining the appropriateness of an all-employee bargaining unit certified by a craft union in the construction industry. All applicants have made representations indicating that they will call minimal, non-duplicative evidence representing only their own distinct perspectives. The Board has arrived at its decision, in part, on the basis of these representations.

[60] For the reasons set out above, there will be an Order as follows:

(a) CLR and the Proposed Union Intervenors are granted public law intervenor standing in this matter;

(b) CLR may provide evidence and argument on the operation of the ministerial designation system in the construction industry from the perspective of a Representative Employer Organization, and on the appropriateness of an all-employee bargaining unit certified by a craft union;

(c) The Proposed Union Intervenors may provide evidence and argument on the operation of the ministerial designation system, the hiring hall system and the Plan from the perspective of a building trade union, and on the appropriateness of an all-employee bargaining unit certified by a craft union;

(d) CLR and the Proposed Union Intervenors may provide further evidence or argument only upon further direction of the Board.

[61] This is a unanimous decision of the Board.

DATED at Regina, Saskatchewan, this **14th** day of **March, 2019.**

LABOUR RELATIONS BOARD

Barbara Mysko
Vice-Chairperson