

**INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, Local 2067, Applicant v
CONSTRUCTION WORKERS UNION, CLAC LOCAL 151, Respondent and LEDCOR UTILITY
INFRASTRUCTURE INC., Respondent**

LRB File No. 117-25 and 100-25; October 10, 2025

Chairperson, Kyle McCreary; Board Members: Lori Sali and Al Parenteau

Citation: *IBEW v CLAC*, 2025 SKLRB 50

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Electrical Workers, Local 2067:

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**Intervention – Uninvolved union seeking to argue build-up principle –
Intervention permitted – Appropriate bargaining unit always in issue on
certification application – Board further wishes to address issue of when to
permit uninvolved union to raise the issue of build-up**

REASONS FOR DECISION

Background:

[1] Kyle McCreary, Chairperson: The Construction Workers Union, CLAC Local 151 (“CLAC”) have applied in LRB File No. 100-25 on May 30, 2025, for certification of an all employees unit with Ledcor Utility Infrastructure Inc. (“the Employer”).

[2] On June 12, 2025, the Employer filed a reply to CLAC’s application in LRB File No. 100-25 and did not contest the proposed unit for bargaining.

[3] On June 16, 2025, the Board directed a vote of the proposed unit. The vote was conducted by electronic ballot between June 17, 2025, and June 24, 2025. The vote has not yet been tabulated.

[4] On June 26, 2025, IBEW Local 2067 (“IBEW”) in LRB File No. 117-25 applied to intervene in LRB File No. 100-25. IBEW seeks standing as an exceptional intervenor or a public interest intervenor to present both argument and evidence. IBEW seeks to argue that the build up principle should apply to the power distribution industry.

[5] On July 10, 2025, CLAC filed a reply in LRB File No.: 117-25 opposing IBEW's participation.

[6] On July 14, 2025, the Employer filed a reply in LRB File No.: 117-25 opposing IBEW's participation.

[7] The Board subsequently requested and received written argument from the parties on the proposed intervention of IBEW.

[8] The proposed bargaining unit relates to powerline technicians employed by the Employer. IBEW represents all powerline technicians employed by SaskPower, Swift Current Light and Power, Allteck Line Constructors Inc., and Midlite Construction Ltd.

[9] IBEW believes that the Employer will hire additional powerline technicians in the future.

Relevant Statutory Provisions:

[10] The Board's general power for considering this application is pursuant to s. 6-103:

General powers and duties of board

6-103(1) *Subject to subsection 6-97(3), the board may exercise those powers that are conferred and shall perform those duties that are imposed on it by this Act or that are incidental to the attainment of the purposes of this Act.*

(2) Without limiting the generality of subsection (1), the board may do all or any of the following:

- (a) conduct any investigation, inquiry or hearing that the board considers appropriate;*
- (b) make orders requiring compliance with:*
 - (i) this Part;*
 - (ii) any regulations made pursuant to this Part; or*
 - (iii) any board decision respecting any matter before the board;*
- (c) make any orders that are ancillary to the relief requested if the board considers that the orders are necessary or appropriate to attain the purposes of this Act;*
- (d) make an interim order or decision pending the making of a final order or decision.*

[11] The Board's authority for amending pleadings, including the addition of parties is pursuant to s. 6-112:

6-112(1) *A technical irregularity does not invalidate a proceeding before or by the board.*

(2) At any stage of its proceedings, the board may allow a party to amend the party's application, reply, intervention or other process in any manner and on any terms that the

board considers just, and all necessary amendments must be made for the purpose of determining the real questions in dispute in the proceedings.

(3) At any time and on any terms that the board considers just, the board may amend any defect or error in any proceedings, and all necessary amendments must be made for the purpose of determining the real question or issue raised by or depending on the proceedings.

(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;

(b) by striking out the name of a person improperly made a party to the proceedings;

(c) by substituting the name of a person that in the opinion of the board ought to be a party to the proceedings for the name of a person improperly made a party to the proceedings; or

(d) by correcting the name of a person that is incorrectly set out in the proceedings.

[12] Section 25 of the Regulations sets out the process for intervening in a proceeding before the Board:

Intervention 25(1) In this section:

“application to intervene” means an application in Form 22 (Application to Intervene);

“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, union, labour organization or other person shall file an application to intervene if the employer, union, labour organization or other person:

(a) is not named in that application; and

(b) intends to apply to intervene in the proceedings before the board.

(3) All applications to intervene must be filed within 20 business days after the date on which the original application was filed with the board.

(4) The registrar shall provide a copy of every application to intervene to:

(a) the party that filed the original application;

(b) any person that filed a reply to the original application or an application to intervene; and

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

(5) If an application to intervene is filed pursuant to subsection (2), the board has the authority to:

(a) determine if the employer, union, labour organization or other person that filed the application to intervene is a party to the proceedings before the board and what standing is to be granted; and

(b) impose terms and conditions on a party to the proceedings before the board.

Analysis and Decision:

[13] IBEW seeks standing as either an exceptional interest intervenor or a public law intervenor. The Board summarized the three types of interventions before the Board in *Construction Workers Union, Local 151 v Tercon Industrial Works Ltd*, 2012 CanLII 2145 (SK LRB):

[31] In J.V.D. Mills 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.

[14] Regardless of the type of intervention, it is a discretionary decision of the Board and a proposed intervenor must satisfy the Board that it should exercise its discretion. The Board takes guidance from *R. v. Latimer*, 1995 CanLII 3921 (SK CA), and *Saskatchewan (Environment) v Saskatchewan Government Employees Union*, 2016 SKQB 250 (CanLII), on the appropriate

factors to consider. In *Saskatchewan (Environment) v Saskatchewan Government Employees Union*, the Court of King's Bench summarized the potential factors to consider as follows:

[41] The granting of intervenor status is discretionary and should be exercised sparingly. Within the ambit of that discretion, CIFFC as an applicant seeking to be made an intervenor in this Queen's Bench matter pursuant to Rule 2-12 should be prepared to address the following:

- a. A sufficient interest in the outcome of the matter must be shown such that their involvement is warranted. An outcome that adversely affects them may well be considered sufficient to meet this criterion;*
- b. There must exist the reasonable prospect that the process will be advanced or improved by their addition as an intervenor. This includes demonstrating that, as an intervenor, they will bring a new perspective or special expertise to the proceedings that would not be available without their participation. Merely echoing the position of one or more of the parties indicates they will not provide the requisite value;*
- c. As an intervenor they cannot seek to increase the number of issues the parties themselves have included in the proceeding;*
- d. Adding them as an intervenor must meet the goals and objectives identified by Rule 1-3 such that the issues raised by the litigation will be heard with reasonable dispatch and the matter will not be overwhelmed with procedure by virtue of their inclusion as an intervenor;*
- e. Adding them as an intervenor must not unduly prejudice one of the parties;*
- f. The intervention should not transform the court into a political arena; and*
- g. The court is not bound by any of these factors in determining an application for intervention but must balance these factors against the convenience, efficiency and social purpose of moving the case forward with only the persons directly involved in the proceeding.*

[15] The Board adopts the analysis of the Board in *Saskatchewan Building Trades Council v. Construction Workers Union, CLAC Local 151*, 2018 CanLII 38251 (SK LRB), in determining that it should permit IBEW's intervention on the issue of build-up in this case:

[26] The application of this test requires first an analysis of the question: what is the legal question in dispute in the Certification Application? The Council asserts that the question in dispute on which they propose to provide assistance to the Board is the application of the build-up principle to all-employee units in the construction industry. Local 151 asserts that there is no question in dispute in the Certification Application. With respect, as Local 151's counsel acknowledged during the hearing, this is a question for the Board to determine. On the face of the material currently before the Board, it appears that the build-up principle may be a live issue in this case. It is plausible that the Board may determine that, as one of the factors to consider during its determination of whether the unit applied for is "appropriate for collective bargaining", as required by section 6-11 of The Saskatchewan Employment Act, that it should consider whether it is appropriate to apply the build-up principle in this situation. If that were to occur, the Council, as the representative of the building trades unions would have a demonstrable and genuine interest in the answer to that question.

[27] *The second question is whether there are special circumstances that differentiate the Council from others who may have a similar interest. In paragraph 32 of its Brief of Argument, the Council establishes this special circumstance: “The Council’s interest in this Board’s policy toward certification applications within the construction industry arises out of the interest of each of its Affiliates as the unions which represent trade divisions pursuant to Part VI, Division 13 of the SEA, and which supply labour to unionized employers through a hiring hall system”, and again in paragraph 33: “the Council is the representative of the Affiliates who operate under that [hiring hall] model, and is ideally suited to present that evidence”.*

[28] *The third question is whether the Council can demonstrate that it can provide a valuable assistance to the Board in considering the issues before it. As the Council represents all but one of the craft based unions that operate in the construction industry in Saskatchewan, they are well placed to answer any questions about how those unions operate and the effect on them of the Board’s decision with respect to the application of the build-up principle in the construction industry.*

[29] *The Board finds that the Council satisfies the test to be granted exceptional intervenor status.*

[30] *The Board also considered the issue of whether the Council satisfies the test to be granted public interest intervenor status. In that case the Council would need to satisfy the Board that its perspective is different or that its participation would assist the Board in considering a public law issue before it.*

[31] *The Council certainly has a perspective that is different from both Local 151 (which states that the build-up principle is not in issue in this case) and the Employer (which takes no position on the issue). Would the Council’s participation assist the Board in considering a public law issue before it? Neither Local 151 nor the Employer can provide the Board with evidence respecting craft unions that operate under Part VI, Division 13 of the Act or the full impact of applying or failing to apply the build-up principle to this or similar certification applications in the construction sector. Given their stated positions on the issue, they cannot be expected to provide the Board with arguments in favour of the application of the build-up principle in this matter.*

[16] Similarly in this case, while build-up is not put in issue by the parties, the issue of appropriate unit is in issue. IBEW has a unique perspective and understanding of the workforce that is subject to potential certification and that perspective may be of assistance to the Board.

[17] The Board agrees that the build-up principle may be theoretically applicable, however the Board cautions the “build up principle” should be applied sparingly and only in compelling circumstances: *United Food and Commercial Workers, Local 1400 v K-Bro Linen Systems Inc.*, 2015 CanLII 43773 (SK LRB) at para 33; *Canadian Union of Public Employees v Town of Preeceville*, 2024 CanLII 121019 (SK LRB) at paras 134-139. IBEW contends that moving from two employees to six employees at some potential future date of the same classification calls for the application of the principle. This appears to be a very marginal case for the application of the principle, although still theoretically possible.

[18] As it relates to the Board's discretion to permit an intervention and the form, the Board finds that when balancing the factors, the balance weighs in favour of permitting intervention. IBEW has a unique perspective that may be of assistance to the Board and has sufficient interest in how the Board determines appropriate units of power line workers. However, in weighing the balance, Board has concerns that permitting this matter to proceed to full oral hearing will cause significant delay and potential prejudice to employees' representational rights. To mitigate this prejudice and potential delay, this matter will proceed as a written hearing on a relatively short timeline.

[19] Further, there is an issue of prejudice to CLAC as a moving party not having full notice of the issue IBEW wishes the Board to address in this hearing. CLAC has filed an application, the facts of which have not been seriously contested by the Employer. The Board finds the application discloses a prima facie case and has sufficiently disclosed the case to meet to the intervenor. As such, the Board orders that IBEW shall file any further evidence and argument first, and CLAC and the Employer shall have the right of reply. The onus of proving an appropriate bargaining unit still lies with CLAC.

[20] For these reasons, IBEW is granted standing as an intervenor on the following conditions:

1. IBEW has until Monday, October 27, 2025 by 5:00 PM to file any additional evidence and argument for the Board to consider in this matter;
2. CLAC and the Employer have until Monday, November 10, 2025 by 5:00 PM file additional evidence and argument in response to IBEW; and
3. IBEW has until Wednesday, November 12, 2025 by 5:00 PM to file any reply.

[21] As a result, with these Reasons, an Order will issue that the Application for Intervention in LRB File No. 117-25 is granted on the condition that IBEW file its affidavits and argument in compliance with the direction of the Board.

[22] The Board thanks the parties for the helpful submissions they provided, all of which were reviewed and considered in making a determination in this matter.

DATED at Regina, Saskatchewan, this **10th** day of **October 2025**.

LABOUR RELATIONS BOARD

Kyle McCreary
Chairperson