



New York State
Department of Economic Development
Division of Minority and Women's
Business Development

In the matter of the appeal of

ADK Water Solutions, Inc.

FINAL ORDER 23-07

From a denial of certification as a Woman-owned Business Enterprise pursuant to Executive Law Article 15-A.

This order arises from an administrative appeal brought on behalf of ADK Water Solutions, Inc. (“ADK” or “Appellant”) pursuant to section 144.2 of Title 5 of the New York Codes, Rules and Regulations.¹ Appellant seeks reversal of the decision of the Division of Minority and Women’s Business Development (the “Division”), dated February 25, 2021, to deny ADK’s June 6, 2019, certification application as a Woman-owned Business Enterprise (“WBE”).

Appellant initiated its appeal by sending a notice of appeal letter dated March 24, 2021, to the Division, requesting to appeal the denial determination via written submission. On June 9, 2021, the Division sent a notice to proceed by written appeal to the Appellant. Thereafter, Ms. Sylwia Siver submitted a written appeal on behalf of ADK dated August 4, 2021. The Division responded to the written appeal submission with its Memorandum of Law dated April 21, 2023, and an Affidavit of Matthew LeFebvre, Associate Certification Director for the Division, with attached Exhibits. Administrative Law Judge (“ALJ”) Adrienne R. Lotson presided over the appeal.

The issues on appeal were whether Appellant sufficiently demonstrated that the woman owner relied upon for certification (1) shares in the risks and in proportion to her 51% interest in ADK Water, as required by 5 NYCRR § 144.2(b)(3), (2) possesses adequate industry-specific competence to make critical business decisions without relying upon other persons, as required by

¹ The Division’s February 25, 2021, denial determination and Appellant’s March 24, 2021, request to appeal post-date the December 2, 2020, amendments made to 5 NYCRR Parts 140 et al. Accordingly, the eligibility criteria set forth under amended regulations are referenced throughout this final order.

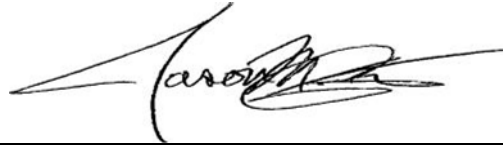
5 NYCRR § 144.2(c)(1), (3) makes operational decisions on a day-to-day basis with respect to the critical functions of the business enterprise, as required by 5 NYCRR § 144.2(c)(2), (4) devotes time on an ongoing basis to the daily operation of the business enterprise, as required by 5 NYCRR § 144.2(c)(3), (5) is the highest ranking officer of the business, and where applicable, has control of the board of directors, as required by 5 NYCRR § 144.2(d)(1), and (6) negotiates business contracts and represents themselves to clients as the principal of the business enterprise, as required by 5 NYCRR § 144.2(d)(2).

On June 12, 2023, the Division received a Recommended Order from ALJ Lotson that recommended affirmation of the Division's denial of the application to certify ADK Water Solutions, Inc. as a WBE on the grounds set forth in the Division's February 25, 2021, denial letter.

After considering the appeal record, I accept the recommendation of the Administrative Law Judge as it pertains to the facts of this case. Incorporation by reference is hereby made with respect to the findings and conclusions of the Recommended Order.

It is hereby **ORDERED** that the decision to deny certification, dated February 25, 2021, is affirmed. Accordingly, ADK Water Solutions, Inc. will not be listed in the Division's directory for Minority and Women-owned Business Enterprises.

August 10, 2023



Jason M. Clark
Executive Vice President and Executive Director
Division of Minority and Women's Business Development