



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

In the matter of the appeal of

P&M Electrical Contracting Corp.

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 P&M Electrical Contracting Corp. ("P&M" 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 June 17, 2020, to deny P&M's September 11, 2018, certification application as a Woman-owned Business Enterprise ("WBE").

Appellant initiated its appeal by sending a notice of appeal letter dated July 16, 2020, to the Division, requesting to appeal the denial determination via written submission. On August 4, 2020, the Division sent a notice to proceed by written appeal to the Appellant. Thereafter, attorney, Susan Mauro, submitted a written appeal on behalf of P&M dated July 16, 2020. The Division responded to the written appeal submission with its Memorandum of Law dated April 21, 2023, and an Affidavit of Robyn Clarke, Director of Certification for the Division, with attached Exhibits. Administrative Law Judge ("ALJ") David A. Murad presided over the appeal.

The issues on appeal were whether Appellant sufficiently demonstrated that the woman owner relied upon for certification (1) has made capital contributions in the form of money, property, equipment or expertise in proportion to her equity interest, as required by 5 NYCRR § 144.2(a)(1); (2) shares in the risks and profits in proportion to her ownership interest in the

¹ The Division's June 17, 2020, denial determination and Appellant's July 16, 2020, request to appeal pre-date the December 2, 2020, amendments made to 5 NYCRR Parts 140 et al. Accordingly, the eligibility criteria set forth under the former regulations are referenced throughout this final order.

business, as required by 5 NYCRR § 144.2(c)(2), (3) has adequate managerial experience or technical competence to operate the business enterprise, as required by 5 NYCRR §144.2(b)(1)(i), and (4) is permitted by relevant business agreements to make decisions without restrictions, as required by 5 NYCRR § 144.2(b)(2).

On June 13, 2023, the Division received a Recommended Order from ALJ Murad that recommended affirmation of the Division's denial of the application to certify P&M Electrical Contracting, Inc. as a WBE on the grounds set forth in the Division's June 17, 2020, 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 June 17, 2020, is affirmed. Accordingly, P&M Electrical Contracting, Corp. will not be listed in the Division's directory for Minority and Women-owned Business Enterprises.

August 11, 2023



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