



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

In the matter of the appeal of

Switchgear Power Systems, LLC

FINAL ORDER 23-06

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 Switchgear Power Systems, LLC (“Switchgear” 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 April 21, 2020, to deny Switchgear’s July 31, 2018, certification application as a Woman-owned Business Enterprise (“WBE”).

Appellant initiated its appeal by sending a notice of appeal letter dated July 9, 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, Horace Flowers, submitted a written appeal on behalf of Switchgear dated October 27, 2020. The Division responded to the written appeal submission with its Memorandum of Law dated April 6, 2023, and an Affidavit of Matthew LeFebvre, Associate Certification Analyst 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 §

¹ The Division’s April 21, 2020, denial determination and Appellant’s July 9, 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.

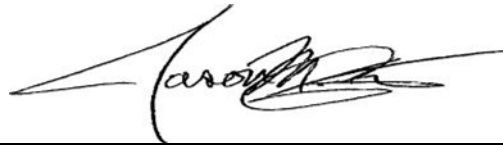
144.2(a)(1); (2) shares in the risks and profits in proportion to her ownership interest, as required by 5 NYCRR § 144.2(c)(2); (3) has adequate managerial experience or technical competence to operate the business enterprise, as required by 5 NYCRR §144.2(b)(1)(i); and (4) has the working knowledge and ability needed to operate the business enterprise, as required by 5 NYCRR § 144.2(b)(1)(ii).

On June 9, 2023, the Division received a Recommended Order from ALJ Murad that recommended affirmation of the Division’s denial of the application to certify Switchgear Power Systems, LLC as a WBE on the grounds set forth in the Division’s April 21, 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 April 21, 2020, is affirmed. Accordingly, Switchgear Power Systems, LLC 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