



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

In the matter of the appeal of

Usmail Electric, Inc.

FINAL ORDER 23-11

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 Usmail Electric, Inc. (“Usmail Electric” or “Appellant”) pursuant to section 144.2 of Title 5 of the New York Codes, Rules and Regulations. Appellant seeks reversal of the decision of the Division of Minority and Women’s Business Development (the “Division”), dated February 21, 2023, to deny Usmail Electric’s June 2, 2021, application for certification as a Woman-owned Business Enterprise (“WBE”).

Appellant issued a request to appeal via written submission to the Division, dated March 21, 2023. A notice to proceed via written appeal was sent to Usmail Electric on March 22, 2023. Appellant submitted its written appeal by letter dated May 12, 2023. Counsel for the Division, Diedre Chuckrow, Esq., filed a written response to the Appellant’s appeal request dated July 28, 2023, together with the affidavit of Associate Certification Director, Glenn Butler, dated July 27, 2023. 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(b)(2); (2) possesses adequate, industry-specific competence to make critical business decisions without relying upon other persons, as required by 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); and (4) devotes time on an ongoing basis to the daily operation of the business enterprise, as required by 5 NYCRR §144.2(c)(3)¹.

On November 2, 2023, the Division received a Recommended Order from ALJ Murad that recommended affirmation of the Division's denial of the application to certify of Usmail Electric, Inc. as a WBE on the grounds set forth in the Division's February 21, 2023, 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 21, 2023, is affirmed. Accordingly, Usmail Electric, Inc. will not be listed in the Division's directory for Minority and Women-owned Business Enterprises.

December 27, 2023



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

¹ The Division acknowledged in its brief that 5 NYCRR§144.2(c)(3) was cited in error and was not a basis for denial of this application.