

NEW YORK STATE
DEPARTMENT OF ECONOMIC DEVELOPMENT
625 BROADWAY
ALBANY, NEW YORK 12207

In the Matter

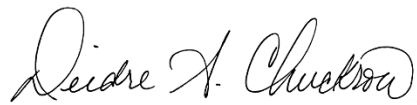
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the Application of Evectrifi Technologies, Inc.
for Certification as a Minority and Woman-Owned Business Enterprise
pursuant to Executive Law Article 15-A.

NYS DED File ID No. 71780

RECOMMENDED ORDER

-by-



Deidre A. Chuckrow
Administrative Law Judge
March 10, 2025

This matter considers the written appeal by Evectrifi Technologies, Inc. (“Evectrifi” or “applicant”) pursuant to New York State Executive Law Article 15-A and Title 5 of the Official Compilation of Codes, Rules and Regulations of the State of New York (5 NYCRR) parts 140-144, challenging the determination of the Division of Minority and Women’s Business Development (“Division”) of the New York State Department of Economic Development (“DED”) that the business enterprise does not meet the eligibility criteria for certification as a minority and woman-owned business enterprise (“MWBE”).

PROCEDURAL HISTORY

1. On December 27, 2023, Evectrifi applied for certification as a minority and women-owned business enterprise (“MWBE”). Evectrifi based its application on Ms. Aimee Galimidi. (DED Exhibit 1).
2. On June 20, 2024, the Division denied the application on the following grounds (DED Exhibit 2):
 - (a) The minority and woman owner relied upon for certification does not possess adequate, industry-specific competence to make critical business decisions without relying upon other persons as required under 5 NYCRR § 144.2(c)(1);
 - (b) The minority and woman owner relied upon for certification does not make operational decisions on a day-to-day basis with respect to the critical functions of the business enterprise, as required under 5 NYCRR § 144.2(c)(2); and
 - (c) The business enterprise for which certification is sought does not operate independently, as required under 5 NYCRR § 144.2(e).

3. Evectrifi submitted a request to appeal the denial determination, dated June 19, 2024. (DED Exhibit 11).
4. A Notice to Proceed Via Written Appeal was sent to Evectrifi on July 25, 2024 (DED Exhibit 12).
5. Applicant's counsel John J. Lynch, of the Law Office of John J. Lynch, submitted a written appeal letter with attachments dated August 19, 2024. (APP Exhibit A).
6. The Division filed an Affidavit of Abdul Bah, Associate Certification Director, dated January 30, 2025, and a brief of Laurel A. Wedinger-Gyimesi, Esq., counsel for the Division, dated January 31, 2025.

FINDINGS OF FACT

7. Evectrifi is engaged in the business of electric vehicle charging stations, electric vehicle charging equipment and batteries. (DED Exhibit 1).
8. Ms. Galimidi, the minority woman owner relied upon for certification, is the President and 51% owner of the applicant business. BMR EV LLC is a shareholder and 49% owner of Evectrifi. (DED Exhibit 1).
9. BMR EV LLC is comprised of a husband, wife and son team which includes Marty (Moises) Waingort¹, Barbara Waingort, and Ronald Waingort. Moises and Barbara Waingort are investors, and both serve on the Evectrifi Board of Directors. Ronald Waingort is their son and is both the Chief Operating Officer and the Chief Technical Officer of Evectrifi. (DED Exhibits 1 and 10).

¹The application lists a Moises Waingort and makes no reference to a Marty Waingort. In the Division's interview of Ms. Galimidi, Ms. Galimidi references a Marty Waingort, and the name Marty Waingort is used in the appeal brief by the Division. In this recommended order, the two are considered to be the same individual.

10. The critical functions of the applicant business include providing electric vehicle charging stations, electric vehicle charging equipment, and electric vehicle batteries. The business manufactures charging equipment and sells their own software for the equipment. (DED Exhibits 1 and 10).
11. Evecrifi was established in May of 2022 with Ms. Galimidi as President and as Chair of the Board of Directors, Eli Braha as the Executive Vice President and a Board Member, and Ronald (“Ronny”) Waingort as the Chief Operating Officer and Chief Technology Officer. The applicant business reports having no employees prior to early 2024. (DED Exhibits 1, 5, 6, 7, and 10).
12. Ms. Galimidi’s prior experience includes two years as a Special Projects Consultant for a fashion company, approximately eighteen years as the manager of a hair salon, experience as a manager, buyer, sales associate for several retail companies, and four years of experience as a legal assistant. Ms. Galimidi has a BA in business management and finance. (DED Exhibit 5).
13. Ms. Galimidi’s role at Evecrifi includes identifying, submitting, and processing requests for proposals (“RFP”), developing partnerships and leading internal management team, overseeing sales meetings and spearheading marketing strategies, capital-raising activities, product development, work with third party manufacturers, suppliers and developers, coordination of office processes and finalizing significant daily decision making, participation in auditing, meeting with accountants and auditors, working with legal compliance teams, and overseeing board of directors. (DED Exhibits 1, 5, and 10; APP Exhibit A).
14. Ms. Galimidi is responsible for negotiating insurance, hiring and firing, and purchasing equipment and sales. Ms. Galimidi shares the management for financial decisions, marketing

and sales, and negotiating contracts with Eli Braha. She shares the management responsibility of estimating, preparing bids, and supervising field operations with Ronald Waingort, with Mr. Waingort being responsible for handling “most of the RFPs,” and for the developing of the machines and software, and delivery of the products. (DED Exhibits 1, 5, and 10; APP Exhibit A).

15. A narrative provided with the application lists Ms. Galimidi’s responsibilities as: identification of and preparing response to Requests for Proposals (RFPs), oversight of Requests for Quotations (RFQs) processes, development of marketing strategies, development of investor materials and pitch decks, website development and management of social media, participation in business development initiatives, review and analysis of legal documents, execution of contracts, authorization for check signing, continuous monitoring of business operations, oversight of daily office processes, representation at industry trade fairs and events and other industry-related gatherings, implementation of office systems, collaboration with product development team, coordination of meetings with trade vendors and service providers, resolution of customer service issues, management of legal matters including liaison with external counsel, input on trademark registration requirements, participation in quarterly sales meetings, and communication with the company’s Board of Advisors. (DED Exhibit 1).

16. Ronald Waingort has worked for the applicant business since September of 2022, and has a BS in aerospace engineering. His skills include data analysis and management, data engineering, algorithm programming, project management, data visualization, and Excel and Excel VBA. His prior experience includes the testing of product prototypes and the collection, recording, and tracking of testing data for use in the improving and increasing production-line productivity and efficiency. He is the Chief Operating Officer (“COO”) and Chief Engineer of

Evectrifi and is also described as its Chief Technology Officer (“CTO”). Mr. Waingort’s responsibilities for Evectrifi includes the design and development of the company’s inaugural EV charging station model, the overseeing of all engineering projects, and the adoption and testing of software. Mr. Waingort handles most of the RFPs and all of the technical components of the business enterprise, which include the development of “the machines,” the development of software, the delivery of the products, and all computer aspects or components of the business. (DED Exhibits 1, 6, and 10).

17. Eli Braha, the Executive Vice President of Evectrifi, and the Secretary and Treasurer of the Board of Directors, has more than forty years of experience in commercial trade. He has experience as a consultant to Blink Charging Inc., an EV Charging business, from late 2021 through 2022, and during that time researched and familiarized himself with the EV charging business. He has also worked as an independent contractor in business development, marketing, and sales. (DED Exhibit 7).
18. The applicant business’ website lists Eli Braha as the Corporate Secretary and Director of Marketing and Sales, and Ronald Waingort as the Chief Operating Officer and Director of Engineering. The website states that the business provides cloud-based software and that it deploys and operates infrastructure for EV charging. (www.evectrifi.com).
19. Evectrifi leases 2500 square feet of warehouse space at 155 Steiner Avenue in Neptune City, New Jersey. The lease is between Nationwide Campus Corp. and Evectrifi Technologies of NJ Inc. The lease is signed by Ms. Galimidi, President, Evectrifi Technologies Inc. The Rider to the lease is signed by Ms. Galimidi, President, Evectrifi Technologies of NJ Inc. (DED Exhibits 1 and 4).

20. Evectrifi Technologies of NJ Inc. is wholly owned by Evectrifi. The lease is in the name of Evectrifi Technologies of NJ Inc. on the advice of counsel for protection from financial exposure related to lease obligations. (DED Exhibits 1 and 4; APP Exhibit A).
21. Invoices for sales between Evectrifi and customers, provided to the Division during the application process, all provide that payments for items sold are to be made to Evectrifi and that the shipping address is from Evectrifi Technologies of NJ Inc, the warehouse location. (DED Exhibit 8).

APPLICABLE LAW

5 NYCRR § 144.2 (c)(1) states as follows:

Competence in the industry. Minority group members and women relied upon for certification must possess adequate, industry-specific competence to make critical business decisions without relying upon other persons. This requirement cannot be satisfied by expertise or experience in office management or general business administration, among other things. In evaluating whether a minority group member or woman possesses adequate, industry-specific competence, the division shall consider factors including but not limited to:

- (i) Whether individuals employed by the business enterprise for which certification is sought are required to obtain licenses or certifications to provide products or services to the clients of the business enterprise;
- (ii) The extent to which academic credentials exist for persons employed in the industry; and
- (iii) The extent to which industry-specific expertise may be obtained via direct work experience.

5 NYCRR § 144.2 (c)(2) states as follows:

Operational decisions. Minority group members and women relied upon for certification must make operational decisions on a day-to-day basis with respect to the critical functions of the business enterprise for which certification is sought. The critical functions of a business enterprise shall be determined by the division based upon the following factors, but is not limited to:

- (i) The products or services the business enterprise provides to clients; and
- (ii) The means by which the business enterprise obtains contracts or orders.

5 NYCRR § 144.2 (e) states as follows:

Independence. Business enterprises for which certification is sought must operate independently. In order to determine whether such business enterprises operate independently, the division shall consider but not be limited to the following criteria:

- (1) Whether the business enterprise shares resources with another entity, including, but not limited to, personnel, equipment, office space, warehouse and other storage space, and yard space;
- (2) Whether the business enterprise transacts business primarily with one other entity; and
- (3) Whether the business enterprise receives tangible benefits as a result of a connection to another entity, and whether such benefits are consistent with standard industry practices.

STANDARD OF REVIEW

On this administrative appeal, applicant bears the burden of proof to establish that Division staff's determination to deny the application filed by Evectrifi for certification as an MWBE is not supported by substantial evidence (*see* State Administrative Procedure Act § 306[1]). The substantial evidence standard "demands only that a given inference is reasonable and plausible, not necessarily the most probable," and applicant must demonstrate that Division staff's conclusions and factual determinations are not supported by "such relevant proof as a reasonable mind may accept as adequate to support a conclusion or ultimate fact." *Matter of Ridge Rd. Fire Dist. v Schiano*, 16 NY3d 494, 499 [2011]).

The review is limited to such information that was before the division at the time of the denial determination (5 NYCRR 145.2(b)(1)). Evidence that seeks to clarify and explain

previously submitted materials will be considered, however new evidence will not be considered. See *Scherzi Systems, LLC v. White*, 197 A.D.3d 1466 (3d Dept 2021).

DISCUSSION

I. Industry-Specific Competence and Day-to-Day Operations

Evectrifi's application for certification as an MWBE was denied on the basis that the applicant failed to demonstrate that Ms. Galimidi possesses adequate, industry-specific competence to make critical business decisions without relying upon other persons, as required by 5 NYCRR § 144.2(c)(1) and that the applicant failed to demonstrate that she 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). (DED Exhibit 2). As many of the facts used to support the Division's denial are the same, and as some of the criteria for denial overlap, they will be addressed collectively.

The Division interprets these regulations to require an applicant to demonstrate that the owner, relied on for certification, has the working knowledge necessary to review or evaluate the work of more experienced employees. See *In the Matter of Upstate Electrical, LLC v New York State Department of Economic Development*, 179 A.D.3d 1343 (3d Dept. 2020) citing to *Matter of C.W. Brown, Inc. v Canton*, 216 A.D.2d 841, 842 (1995) (where the Court affirmed the denial where the owner had no training or experience in the industry to make her qualified to supervise the work of her employees.) The Division consistently requires that owners be able to perform the core revenue generating functions of the business enterprise. See *Matter of Bore Tech, LLC*, Recommended Order, June 1, 2021 (Final Order 21-05, February 7, 2022), see also, *Matter of Occupational Safety & Environmental Assoc., Inc. v New York State Department of Economic*

Development, 161 A.D.3d 1582 (4th Dept. 2018). Expertise or experience in office management or general business administration will not satisfy these requirements. 5 NYCRR § 144.2(c)(1). In considering 5 NYCRR § 144.2(c)(1), regarding industry-specific competence, the Division shall consider:

- (i) Whether individuals employed by the business enterprise for which certification is sought are required to obtain licenses or certifications to provide products or services to the clients of the business enterprise;
- (ii) The extent to which academic credentials exist for persons employed in the industry; and
- (iii) The extent to which industry-specific expertise may be obtained via direct work experience.

The regulation under 5 NYCRR 144.2(c)(2) provides that in determining whether a person relied on for certification makes critical business decisions on a day-to-day basis without relying on others, the critical functions of the business enterprise shall be determined by the Division based upon, but not limited to, the following factors: (1) “The products or services the business enterprise provides to clients; and” (2) “The means by which the business enterprise obtains contracts or orders.” 5 NYCRR § 144.2 (c)(2). The Division consistently denies certification where the owner has no training, experience, or working knowledge in the core business functions and other employees or owners have more significant or substantive experience, and exercise that experience, such as by supervising or controlling field operations. *Matter of Panko Electrical and Maintenance Corp. v Zapata et. al*, 172 A.D.3d 1682 (3d Dept. 2019), see also *Matter of Upstate Electrical, supra*.

The Applicant bears the burden of establishing that the minority-woman group member relied upon for certification has met this requirement. Failure to satisfy this burden is proof that

the denial was supported by substantial evidence. See *Matter of A.A.C. Contracting, Inc. v. New York State Dept. of Economic Development*, 195 A.D.3d 1284 (3d Dept. 2021).

Here, Ms. Galimidi does not possess adequate, industry-specific competence to make critical business decisions without relying upon other persons and relies on others to assist in making day-to-day operational decisions for the business enterprise. Ms. Galimidi's education and professional background, prior to working at the applicant business, was in the fashion and beauty industry, including the management of retail businesses. (DED Exhibit 5). Her resume lists no courses or trainings relating to the field of electric vehicle charging, instead, her educational and professional experience is in general business management. (DED Exhibit 5).

The Division determined that the critical functions of Evectrifi, based on the application and what products and services the applicant business provides to clients, is the provision of EV charging equipment, including vehicle charging stations and batteries. (DED Exhibits 1, 2, and 8). Included in the Division's evaluation was information obtained through the applicant business' website. The information provided, including contracts, invoices, narratives, resumes, an interview, and a review of Evectrifi's website, demonstrates that in addition to providing electric vehicle charging equipment, the business also develops and sells software for those products and provides project management in conjunction with the provision of the charging equipment. (DED Exhibits 1, 8, and 10; www.evectrifi.com).

The application provides a list of Ms. Galimidi's responsibilities for Evectrifi which includes: identification of and preparing response to Requests for Proposals (RFPs), oversight of Requests for Quotations (RFQs) processes, development of marketing strategies, development of investor materials and pitch decks, website development and management of social media, participation in business development initiatives, review and analysis of legal documents,

execution of contracts, authorization for check signing, continuous monitoring of business operations, oversight of daily office processes, representation at industry trade fairs and events and other industry-related gatherings, implementation of office systems, collaboration with product development team, coordination of meetings with trade vendors and service providers, resolution of customer service issues, management of legal matters including liaison with external counsel, input on trademark registration requirements, participation in quarterly sales meetings, and communication with the company's Board of Advisors. (DED Exhibit 1).

The application also provides that Ms. Galimidi is solely responsible for negotiating of insurance, hiring and firing, and purchasing equipment and sales. Ms. Galimidi shares responsibility for financial decisions, marketing and sales, and negotiating contracts with Eli Braha, and also shares estimating, preparing bids, and supervising field operations with Ronald Waingort. (DED Exhibit 1). Nowhere in the application, nor in the appeal is there any information regarding Ms. Galimidi performing any technical work relating to the development of the products or software sold or leased by the applicant business.

During the interview with the Division, Ms. Galimidi explained that the business "manufacture[s] EV charging stations," and that in addition to installing the charging stations, they maintain them and sell their own software for them as well. Ms. Galimidi stated that she coordinates with Ronald Waingort, goes over RFPs and RFQs with him and stated that it is Mr. Waingort who is responsible for anything having to do with computers. (DED Exhibit 10).

The application identifies Ronald Waingort as the Chief Operating Officer, Chief Technology Officer, and the Chief Engineer of Evecrifi. Ronald Waingort, in contrast to Ms. Galimidi, has a degree in aerospace engineering and has experience and skills in data analysis and management, data engineering, algorithm programming, project management, data visualization,

and Excel and Excel VBA. His prior experience includes the testing of product prototypes and the collection, recording, and tracking of testing data for use in the improving and increasing production-line productivity and efficiency. As the COO and Chief Engineer of Evectrifi, his responsibilities for Evectrifi includes the design and development of the company's inaugural EV charging station model, the overseeing of all engineering projects, and the adoption and testing of software. Further, Mr. Waingort is described as handling most of the RFPs and all the technical components of the business enterprise, which include the development of "the machines," the development of software, the delivery of the products, and all computer aspects or components of the business. (DED Exhibits 1, 6, and 10).

While there is ample evidence that Ms. Galimidi controls the administrative and financial side of the business, there is no evidence, anywhere in either the application, nor on appeal, which indicates that she has anything to do with the project management of the delivery and installation of the products provided, nor of the development of the software to run those products. (DED Exhibits 1, 5, and 10). The information submitted with the application provides that it is Ronald Waingort who performs any and all "technical stuff" and computer related work relating to the business. (DED Exhibits 1, 6, and 10).

Ms. Galimidi also provided that after meeting Ronald Waingort she decided that "with her business background and [Ronald Waingort's] technology knowledge" she would start Evectrifi, and also stated that "Ronnie (Ronald) has the technology part of the company, so he is basically the CTO of the company," and that he does all the "technical stuff." (DED Exhibit 10). Mr. Waingort's resume, submitted with the application, provides that he worked in the design and development of Evectrifi's "inaugural EV charging station model," that he "oversaw all

engineering projects,” and that he “drove the adoption of state-of-art software tools.” (DED Exhibit 6).

The applicant argues, for the first time on appeal, that Evectrifi is solely a Value-Added Reseller (“VAR”) and that it purchases machines which are then “white labeled for sale and distribution.” (APP Exhibit A). The applicant also asserts that Ms. Galimidi engages in many tasks for Evectrifi, some of which could be considered as relating to the critical functions of the business. (APP Exhibit A). This information was not before the Division at the time of the application, is new and not clarifying information and therefore, cannot now be considered. See *Scherzi, supra*.

In this case, at the time of the application, Evectrifi provided that its principal products and commodities sold, and the specialties or services offered by them were “Electric vehicle charging stations, Electric vehicle charging equipment, Electric vehicle batteries,” and listed NAICS Code 335999: All other Miscellaneous Electrical Equipment and Component Manufacturing.²” (DED Exhibit 1). When asked specifically what work is performed by the applicant business, Ms. Galimidi stated, “We manufacture EV charging stations. We sell them, we own, we operate, we install, and we maintain the charging stations. (DED Exhibit 10). We also sell our software for it.” (DED Exhibit 10). Nowhere, in the application, in the supporting documents submitted with the application, nor in the interview with the Division is there any mention of the business being a Value-Added reseller.

The information provided by the applicant on appeal, directly contradicts the information submitted with the application. On appeal, the applicant states that the business does not manufacture charging stations and plays no roll in the development of the products, stating instead that the business is only a “value-added reseller (VAR).” (APP Exhibit A). Ms. Galimidi, in her

² North American Industry Classification System Number (“NAICS”)

affidavit now states, “[Evectrifi] sources all of the products it provides to its customers. We do not manufacture EV charging stations nor do we play any role in the development of any [of] the technology that has gone into the invention or development of the products.” (APP Exhibit A). The appeal submission also provides that the choice of NAICS code 335999 was because there was no code that “seemed precisely accurate” for electric vehicle charging. (APP Exhibit A). In addition, Mr. Waingort now asserts on appeal that his primary role at Evectrifi is overseeing warehouse inventory, information that is absent from Mr. Waingort’s resumé and is not referenced anywhere in the information provided with the application. (APP Exhibit A).

In addition, Applicant’s reliance on the *Matter of Prominent Logistics*, Recommended Order, May 3, 2024 (Final Order 2024-06, July 5, 2024). is misplaced. In *Prominent*, the owner relied on for certification had founded the business and worked at it for 10 years prior to seeking certification and testified that she hired and trained all the employees and oversaw and directed all aspects of the business. Here, the business is a new one, having only been in operation for approximately two years prior to seeking certification, and Ms. Galimidi acknowledges that she has no knowledge of computers, and relies exclusively on Ronald Waingort for all technical matters of the applicant business. (DED Exhibits 1, 8 and 10; APP Exhibit A; www.evectrifi.com).

Given that much of the information contained in the applicant’s appeal submission contradicts, and does not clarify, the information provided with the application, it cannot now be considered. See *Matter of Software Guidance & Assistance Inc.*, Recommended Order, September 20, 2024 (Final Order 24-11, December 2, 2024) (where new information provided on appeal did not clarify, but contradicted the information provided in the application, it will not be considered on appeal), and See *Scherzi, supra*.

Based on the foregoing, I find that the Division's determination that Evectrifi has not demonstrated that the minority-woman owner relied upon for certification possesses adequate industry competence without relying on others and makes operational business decisions as to the critical functions of the applicant business, as required under 5 NYCRR §§ 144.2(c)(1) and (2) is supported by substantial evidence.

II. Independence

The Division denied Evectrifi's application for certification as an MWBE on the basis that the applicant business failed to demonstrate that it operates independently, as required by 5 NYCRR § 144.2(e). (DED Exhibit 2). To determine whether a business operates independently the Division shall consider, but is not limited to the following: "(1) Whether the business enterprise shares resources with another entity, including, but not limited to, personnel, office space, warehouse and other storage space, and yard space; (2) Whether the business enterprise transacts business primarily with one other entity; and (3) Whether the business enterprise receives tangible benefits as a result of a connection to another entity, and whether such benefits are consistent with standard industry practices." (5 NYCRR § 144.2 (e) (1) (2) and (3))

The Division regularly denies certification where the applicant business is so entwined with another business, such as operating out of the same space, where one business leases the space to the other under unusually favorable terms, where the applicant business is dependent on the other for capitalization and other basic functions, or where a business primarily transacts with one other business entity. See *Matter of Acme Lightning Rod, LLC*, Recommended Order, February 25, 2020, (Final Order 20-02, April 21, 2020) (applicant denied certification where it shared board members, personnel, office space, etc., and paid that same entity as a subcontractor to perform majority of work). See also, *Matter of Skyline Specialty, Inc. v. Gargano*, 294 A.D.2d 742 (3rd Dept. 2002)

(affirming denial of certification where 85% of applicant's income came from one entity of which person relied upon for certification was an employee, sole board member of applicant business was the sole shareholder of the other entity, and the business shared office space and employees)

Evectrifi is engaged in the business of providing electric vehicle charging stations, equipment, and batteries, including the development and sale of software for electric vehicle charging stations. (DED Exhibits 1 and 10; APP Exhibit A). The business leases 2500 square feet of warehouse space at 155 Steiner Avenue in Neptune City, New Jersey. (DED Exhibits 1 and 4). The commercial lease, is between Evectrifi Technologies of NJ Inc., located at 155 Steiner Ave, Neptune City, NJ, and Nationwide Campus Corp, and signed by Ms. Galimidi, of Evectrifi Technologies Inc. A Rider is signed by Ms. Galimidi, President, Evectrifi Technologies of NJ Inc. (DED Exhibit 4). No information was included in the application regarding Evectrifi Technologies of NJ Inc.

On appeal, the applicant states that Evectrifi Technologies of NJ Inc. is wholly owned by Evectrifi, and that the lease is in the name of Evectrifi Technologies of NJ Inc. on the advice of counsel for protection from financial exposure related to lease obligations. (APP Exhibit A). In addition, the invoices and contracts submitted with the application are between Evectrifi and clients, not between Evectrifi Technologies of NJ Inc. and clients. The only reference to Evectrifi Technologies of NJ Inc. is as the shipping location, and payment for goods delivered is due by Evectrifi. (DED Exhibit 8). Evectrifi is paying for the goods and services.

Applicant now seeks to introduce documents to explain the ownership structure of Evectrifi of NJ Inc., however those documents were not before the Division at the time of the application and cannot now be considered. See *Scherzi, supra*.

Applicant's explanation of the ownership of the warehouse clarifies information already before the Division at the time of the application and is therefore admissible. Ms. Galimidi's affidavit provides clarity as to the ownership of the warehouse, which is supported by the information contained in the invoices already before the Division. The only basis for the Division's denial is that the ownership revolves around questions of ownership relating to the warehouse inventory, which has since been clarified. (DED Exhibit 2). Therefore, I find that the Division's determination to deny Evectrifi's certification on the grounds of independence is not based on substantial evidence.

CONCLUSION

Evectrifi did not meet its burden to demonstrate that the Division's determination to deny its application for certification as a minority and woman-owned business enterprise with respect to the eligibility criteria at 5 NYCRR §§ 144.2(c)(1), and 144.2(c)(2) was not based on substantial evidence. Evectrifi did however, meet its burden with respect to the eligibility criteria at 5 NYCRR § 144.2(e).

RECOMMENDATION

The Division's determination to deny Evectrifi Technologies Inc.'s application for certification as a minority and woman-owned business enterprise should be modified in part, and as modified, affirmed.

In the Matter of Evectrifi Technologies Inc
DED File ID No. 71780
Exhibit Chart

Exhibit #:	Description of the Exhibits	Offered (Yes/No)	Admitted (Yes/No)
APP A	Applicant Appeal Letter and Submissions	Y	Y
DED 1	Application for Certification	Y	Y
DED 2	Denial Letter	Y	Y
DED 3	Agreement to be Bound by The Certification Application Affidavit	Y	Y
DED 4	Lease agreement between Nationwide Campus Corp. and Evectrifi Technologies of NJ Inc.	Y	Y
DED 5	Aimee Galimidi Resume	Y	Y
DED 6	Ronald Waingort Resume	Y	Y
DED 7	Eli Braha Resume	Y	Y
DED 8	Contracts/Invoices; INV-110 Sarway Invoice; INV-107, Electrada Invoice; INV-106 1775 Coney Island Invoice; INV-101, Nu Energy; Swift Sparks INV-111	Y	Y
DED 9	Evectrifi 2022 Tax Return	Y	Y
DED 10	Recording of Interview	Y	Y
DED 11	Notice of Appeal dated June 19, 2024	Y	Y
DED 12	Notice to Proceed via Written Appeal dated July 25, 2024	Y	Y
DED 13	NYC DOT RFP dated October 6, 2023	Y	Y