



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

In the matter of the appeal of

**K&G ELECTRIC MOTOR & PUMP
CORP. DBA KG POWER SYSTEMS**

FINAL ORDER 24-02

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 K&G Electric Motor & Pump Corp. dba KG Power Systems (“K&G” 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 27, 2023, to deny K&G’s September 21, 2022, certification application as a Woman-owned Business Enterprise (“WBE”).

Appellant initiated its appeal by sending a Request to Appeal Form dated March 7, 2023, to the Division, requesting to appeal the denial determination via written submission. On March 20, 2023, the Division sent a notice to proceed by written appeal to the Appellant. Thereafter, K&G submitted a written appeal dated April 21, 2023. The Division responded to the written appeal submission with its Memorandum of Law dated October 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.

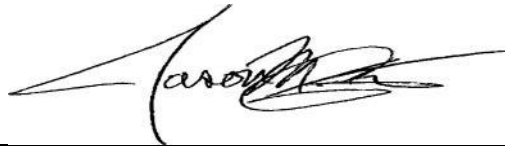
The issues on appeal were whether Appellant sufficiently demonstrated that the woman owner relied upon for certification (1) has made a capital contribution to the business enterprise proportionate to her equity interest therein, as demonstrated by, but not limited to, contributions of money, property, equipment or expertise, 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 under 5 NYCRR §144.2(c)(1); and (3) makes 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).

On January 18, 2024, the Division received a Recommended Order from ALJ Murad that recommended affirmation of the Division's denial of the application to certify K&G Electric Motor & Pump Corp. dba KG Power Systems as a WBE on the grounds set forth in the Division's February 27, 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 27, 2023, is affirmed. Accordingly, K&G Electric Motor & Pump Corp. will not be listed in the Division's directory for Minority and Women-owned Business Enterprises.

May 7, 2024

A handwritten signature in black ink, appearing to read "Jason M. Clark", written over a horizontal line.

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