

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

ELECTRIC ENERGY, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 08-CV-0570-MJR
)	
MOBOTEC USA, INC., and)	
MINPLUS, INC.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

REAGAN, District Judge:

On August 8, 2008, Electric Energy, Inc. filed the above-captioned action (Doc. 2). On August 19, 2008, Electric Energy filed an amended complaint alleging that Defendants breached certain express and implied warranties (Doc. 10). The breach of warranty claims arise out of an agreement between the parties, wherein the Defendants were to design a system to reduce mercury emissions from Electric Energy’s boilers.

Alleging that the agreement includes a provision that requires the parties to submit any disputes to binding arbitration, Defendant Mobotec filed a motion to stay this action pending the resolution of this matter by arbitration (Doc. 18). Defendant MinPlus notes that it was not a party to the agreement, but argues that arbitration should also be compelled as to Electric Energy’s claims against MinPlus because Electric Energy’s claims are the same against all Defendants. MinPlus takes a slightly different route than Mobotec, however, and asks this Court to compel arbitration and dismiss the action, or in the alternative, compel arbitration and stay this action (Doc. 27).

In response to both motions, Electric Energy does not contest the applicability of the arbitration clause and states: “Electric Energy, Inc. consents to the arbitration provision set forth in Paragraph 10 of the July 6, 2006, agreement between Mobotec USA, Inc. and Electric Energy, Inc. as attached to Mobotec USA, Inc.’s Motion to Stay as Exhibit ‘A’” (Docs. 28 & 29). However, Electric Energy asks the Court to stay rather than dismiss the action.

Accordingly, the Court hereby **GRANTS** Mobotec’s motion to stay (Doc. 18), **GRANTS IN PART AND DENIES IN PART** MinPlus’s motion to stay (Doc. 27), and **STAYS** this action pending the parties’ resolution of this case via binding arbitration. Additionally, Electric Energy **SHALL FILE** status reports with this Court **on February 2, 2009, May 1, 2009, August 3, 2009, and every three months thereafter**, thereby apprising the Court of the status of the arbitration proceedings and whether this case can be dismissed.

IT IS SO ORDERED.

DATED this 13th day of November 2008.

s/ Michael J. Reagan
MICHAEL J. REAGAN
United States District Judge