

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

SIEMENS INDUSTRY, INC., successor)
through merger to Siemens Water Technologies)
Corporation,)
Plaintiff,)
)
v.)
)
THE CITY OF EAST CHICAGO, INDIANA,)
Defendant.)

Case No. 2:13-CV-273-JTM-PRC

OPINION AND ORDER

This matter is before the Court on a Motion to Consolidate [DE 20], filed by Defendant the City of East Chicago (the “City”) on October 3, 2013. Defendant requests that this matter be consolidated with The City of East Chicago v. Siemens Water Technologies Corporation, *et al.*, cause number 2:13-CV-334-RLM-APR. On October 17, 2013, Plaintiff Siemens Industry, Inc. (“Siemens”) filed a response to the motion, indicating that it has no objection to the Motion to Consolidate.

Federal Rule of Civil Procedure 42(a) provides that “[i]f actions before the court involve a common question of law or fact, the court may . . . consolidate the actions.” Fed. R. Civ. P. 42(a)(2). Consolidation is appropriate for “cases that share the same questions of law or fact and where consolidation would not result in prejudice to any party.” *Back v. Bayh*, 933 F. Supp. 738, 748 (N.D. Ind. 1996) (citing *Fleishman v. Prudential-Bache Sec.*, 103 F.R.D. 623, 624 (E.D. Wis. 1984)). Courts “consider such factors as judicial economy, avoiding delay, and avoiding inconsistent or conflicting results” as well as “as the possibility of juror confusion or administrative difficulties.” *Habitat Educ. Ctr., Inc. v. Kimbell*, 250 F.R.D. 390, 394 (E.D. Wis. 2008).

On August 7, 2013, the City filed in the Lake County, Indiana, Superior Court a lawsuit

against Siemens, Siemens Industry, Inc., Siemens Water Technologies, Corp., Federal Insurance Company, and Fidelity and Deposit Company of Maryland. The same date, Siemens filed the instant lawsuit against the City based on the same underlying dispute—namely, a breach of contract case relating to a \$50 million non-functioning water treatment plant in East Chicago, Indiana.

The causes of action concern the same underlying dispute and involve common questions of law and fact. Consolidation will avoid the possibility of inconsistent outcomes. Notably, in the instant case, the City filed a Motion to Abstain on August 29, 2013, arguing that this case should be stayed pending resolution of the state case. On September 20, 2013, Siemens filed a Notice of Removal and removed the state case to this Court, identifying the instant cause of action as a related case on the civil cover sheet of the removed case; the case was assigned cause number 2:13-CV-334. Subsequently, the City filed a Motion to Remand on October 3, 2013 in 2:13-CV-334. Judicial efficiency will be served by the resolution of the motion to remand and the motion to abstain by the same judge.

Accordingly, in the interest of judicial economy, the Court hereby **GRANTS** the Motion to Consolidate [DE 20] and **ORDERS** consolidation of cause numbers 2:13-CV-273-JTM-PRC and 2:13-CV-334-RLM-APR.

All future filings shall be made in 2:13-CV-273-JTM-PRC **only**.

SO ORDERED this 21st day of October, 2013.

s/ Paul R. Cherry

MAGISTRATE JUDGE PAUL R. CHERRY
UNITED STATES DISTRICT COURT

cc: All counsel of record