

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Joint Application)	
of Ohio Power Company and)	Case No. 14-2296-EL-EEC
Solvay Specialty Polymers for Approval)	
of a Special Arrangement Agreement)	

In the Matter of the Joint Application)	
of Ohio Power Company and)	Case No. 14-2304-EL-EEC
Kraton Polymers U.S. LLC for Approval)	
of a Special Arrangement Agreement)	

JOINT COMMENTS OF SOLVAY SPECIALTY POLYMERS, KRATON POLYMERS U.S. LLC, AND OHIO POWER COMPANY IN RESPONSE TO THE COMMISSION'S MARCH 16, 2015 ENTRY

On March 16, 2015 the Administrative Law Judge (ALJ) in this proceeding issued an entry suspending the automatic approval of the Solvay Specialty Polymers ("Solvay") and Kraton Polymers U.S. LLC ("Kraton") applications filed in these dockets. The ALJ also sought comments regarding the policy issues to be addressed in the cases. The Applicants Kraton, Solvay and Ohio Power Company (collectively Joint Parties) submit these comments.

The Joint Parties provided positions and justifications in their comments and filings to date that deal with the main policy issues for Commission consideration. The Joint Parties incorporate those filings for Commission consideration and reserve the right to file reply comments to any comments filed in the docket in response to the March 16, 2015 Entry. Likewise, if there are specific areas the ALJ would appreciate a deeper discussion the Joint Parties stand ready to respond to any such further request on any specific issue.

In discussing the issues presented to the Commission in the present case, the Joint Parties thought it prudent to provide the Commission a common understanding of some issues and how

they ultimately relate to the applications filed in these two dockets. The Joint Parties are aware of the Commission's holding in the *Jay Plastics* Finding and Order¹ and find it appropriate to discuss how it would apply to these applications. In *Jay Plastics* the Staff recommended that the commitment of the energy production as energy efficiency to the electric utility should be for the full life of the CHP facility. The Application in *Jay Plastics* limited the incentives to the 5.39 years included in the request and sought to remain eligible to seek further incentives after the initial term. The customer filed in agreement with the Staff conditions and the Commission approved the project in accordance with the Staff recommendations.

The *Jay Plastics* holding should not be read to require an investing business customer to waive its right to opt out of the EE/PDR Rider just because it chose to invest in a previous project. The EDU's counting of the measure for the life of a project and the right of the investing business customer to opt out of the rider are not mutually exclusive. The goal is to encourage energy efficiency and demand response programs. It would chill any investment in the future, particularly large projects that produce significant benefits to limit a customer's right to opt out with a prerequisite that there be no existing projects with any measure life remaining incented by the EDU and implemented by that customer. The Commission should ensure that application of the *Jay Plastics* case allows for a distinction between the Customer's right to opt out of the rider and the EDUs right to count the lifetime measures associated with a project implemented prior to that election. A decision that does not allow this distinction raises compliance costs unnecessarily and creates a significant administrative burden for the EDU. As the Commission is aware, eligible customers have the right to both opt out and opt in. The

¹ *In the Matter of the Application of Jay Plastics Division of Jay Industries, Inc. for Integration of Mercantile Customer Energy Efficiency or Peak-Demand Reduction Programs with The Ohio Edison Company* Case No. 13-2440-EL-EEC, (Finding and Order February 11, 2015).

Company recommends that when a customer is paying the EE/PDR rider, all projects whether CHP or other EE projects qualify for incentives and count toward EDU incremental and cumulative goals. When a customer chooses to opt out, no projects implemented during the customer's opt out period are eligible for incentives or count toward the EDU's incremental or cumulative goals and the customer is removed from the EDU's baseline. Projects completed while the customer was previously opted in continue to count for the life of those projects and toward the EDU's cumulative goals.

The Joint Parties recognize that such a decision to withdraw from the rider would require some type of change if incentive payments were still due to the investing business customer. In such a scenario, the measures associated with the life of the project should continue to be counted by the EDU toward its cumulative goals, but as a result of the opt-out, the investing business customer would not receive any further incentive payments, could not initiate a new project supported by EDU incentives and the customer's load would no longer be counted in the EDU's baseline due to its opt out status. The Commission should make this point clear in its approval of the applications.

The Joint Parties agree that Kraton has the right under the changes from S.B. 221 to opt out of the EE/PDR Rider on January 1, 2017 or later, but if they do so then the incentive payments will end and the other associated impacts of opting out would attach to the customer. However, a decision by the Customer to opt out would not relieve the Customer of any other provision of the agreement between the joint parties for the remaining term and the energy efficiency and peak demand reduction will remain committed to the Company for the life of the project.

As the Commission is aware, the Applicant could be eligible for a rider exemption, in place of the series of payments under R.C. §4928.66(A)(2)(c). If the Commission intends to approve the CHP measures for the life of the CHP project and hold the investing business customer hostage to pay the rider during the CHP project lifespan, then Kraton and Ohio Power, with the support of the other Joint Parties, respectfully request that the Commission approve an amendment to its application and request a rider exemption in place of service payments. Ohio Power and Kraton would update its underlying documents to accommodate such a change as ordered by the Commission in its Order. Solvay does not wish to amend its application as a result of this clarification; this potential change should only be applied to Kraton and not to Solvay.

Respectfully submitted,

//ss// Matthew J. Satterwhite

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*Filed on behalf of Ohio Power Company, Solvay Specialty
Polymers and Kraton Polymers U.S. LLC*

CERTIFICATION OF SERVICE

I hereby certify that a copy of the Comments Of Ohio Power Company, Solvay Specialty Polymers and Kraton Polymers U.S. LLC was served on the persons stated below by electronic mail, this 13th day of April 2015.

//s/ Matthew J. Satterwhite

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Summary: Comments -- Joint Comments of Solvay Specialty Polymers, Kraton Polymers U.S. LLC and Ohio Power Company electronically filed by Mr. Matthew J Satterwhite on behalf of Ohio Power Company