BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Applications of Solvay Advanced Polymers, L.L.C., dba Solvay Specialty Polymers; and	)))	Case No. 14-2296-EL-EEC
Kraton Polymers U.S. LLC, for Integration of Mercantile Customer Energy Efficiency and/or Peak-Demand Reduction Programs with the Ohio Power Company.	))))	Case No. 14-2304-EL-EEC

FINDING AND ORDER

Summary:

(1) In this Finding and Order, the Commission grants the applications of Solvay Advanced Polymers, L.L.C., dba Solvay Specialty Polymers (Solvay), and Kraton Polymers U.S. LLC (Kraton) to commit their respective combined heat and power (CHP) systems to the energy efficiency and peak demand reduction (EE/PDR) program portfolio of the Ohio Power Company (AEP-Ohio or Utility) pursuant to R.C. 4928.66.

Legal Basis:

(2) R.C. 4928.66 imposes certain energy efficiency and peak demand reduction (EE/PDR) requirements upon Ohio's electric distribution utilities, but also enables mercantile customers to commit their EE/PDR programs for integration with an electric utility's programs in order to meet the statutory requirements. R.C. 4928.01(A)(19) defines a mercantile customer as a commercial or industrial customer that consumes more than 700,000 kilowatt hours (kWh) of electricity per year or that is part of a national account involving multiple facilities in one or more states. Ohio Adm.Code 4901:1-39-05(G) permits a mercantile customer to file, either individually or jointly with an electric utility, an application to commit the customer's EE/PDR programs for integration with an electric utility's programs.

(3) 2011 Am.Sub.S.B. No. 315 (SB 315), amended R.C. 4928.01(A)(40) and 4928.66 to include energy savings and demand reductions from combined heat and power (CHP) systems as EE/PDR

programs that mercantile customers may choose to commit for integration with an electric utility's EE/PDR programs.

(4) On July 17, 2013, the Commission adopted a pilot program (EEC Pilot) in Case No. 10-834-EL-POR to expedite the review and approval process for applications filed by mercantile customers under Ohio Adm.Code 4901:1-39-05(G), until such time as the provisions of the EEC Pilot can be codified in Ohio Adm.Code Chapter 4901:1-39. The EEC Pilot is intended to simplify the application process through the use of a standard application template for mercantile customers who commit their programs for integration with an electric utility. The EEC Pilot includes an automatic approval process whereby applications conforming to the standard template are deemed to be approved 60 days after filing, unless suspended or otherwise ordered by the Commission or an attorney examiner.

(5) 2014 Sub.S.B. No. 310 (SB 310), which became effective on September 12, 2014, amended Ohio's renewable energy, and EE/PDR requirements. Among other changes, SB 310 modified R.C. 4928.64 and 4928.66 such that the 2014 renewable energy resource and energy savings benchmarks will remain in effect for 2015 and 2016, for electric utilities electing to file amended EE/PDR portfolio plans. Section 6 of SB 310 gave electric utilities the option of either continuing to implement their portfolio plans in effect on September 12, 2014, or to amend their portfolio plans to take advantage of the lower 2014 benchmark levels by filing applications with the Commission to amend their plans by October 12, 2014. Section 7(B) of SB 310 prohibits the Commission from taking any action in 2015 or 2016 with regard to any portfolio plan, except with respect to an application to amend an existing plan under Section 6(B) of SB 310, or with respect to actions necessary to administer the implementation of an electric utility's existing portfolio plan.

(6) SB 310 also added a new section, R.C. 4928.6611, which provides that:

> Beginning January 1, 2017, a customer of an electric distribution utility may opt out of the opportunity and ability to obtain direct benefits from the utility's portfolio plan. Such an opt out shall extend

> to all of the customer's accounts, irrespective of the size or service voltage level that are associated with the activities performed by the customer and that are located on or adjacent to the customer's premises.

R.C. 4928.6610 generally restricts the definition of "customer" in R.C. 4928.6611 to customers taking service above the primary voltage level as determined by the utility's tariff classification, and commercial or industrial customers that are served through a meter of an end user or through more than one meter at a single location in a quantity that exceeds 45 million kWh for the preceding calendar year, and that have made a written request for registration as a self-assessing purchaser pursuant to R.C. 5727.81 for excise tax purposes.

Proceedings:

(7) The EE/PDR program portfolio plan of AEP-Ohio for the 2012-2014 period (AEP-Ohio's EE/PDR plan) was approved by the Commission's March 21, 2012 Finding and Order in Case No. 11-5568-EL-POR. The Utility elected not to file an application to amend its EE/PDR plan pursuant to Section 6 of SB 310.

(8) On December 22, 2014, Solvay and Kraton filed these applications jointly with AEP-Ohio, pursuant to Ohio Adm.Code 4901:1-39-05(G), to integrate the installation of their respective CHP systems with AEP-Ohio's EE/PDR programs.

(9) On January 12, 2015, the Industrial Energy Users-Ohio (IEU-Ohio) moved to intervene in both cases, and filed comments objecting to the applications and asserting that these proceedings may impact the price, adequacy, and reliability of electric service to IEU-Ohio member facilities.

(10) On February 5, 2015, the Ohio Manufacturers' Association Energy Group (OMAEG) also moved to intervene and filed comments in both cases, asserting that these cases may affect its members who pay costs associated with AEP-Ohio's portfolio plan.

(11) On February 10, 2015, AEP-Ohio filed reply comments to IEU-Ohio's and OMAEG's comments in both proceedings.

(12) On February 20, 2015, the attorney examiner issued an entry suspending the 60-day automatic approval process under EEC Pilot for both applications, and granting the motions of IEU-Ohio and OMAEG for intervention in both proceedings.

(13) On March 16, 2015, the attorney examiner issued an entry dispensing with the need for evidentiary hearings, as the facts presented in both applications are not in dispute. However, as these applications do raise novel issues with respect to the integration of the Solvay and Kraton CHP systems with AEP-Ohio's EE/PDR plan under SB 315 and SB 310, the parties were directed to file initial and/or reply comments by April 13, and 27, 2015, respectively.

(14) Initial comments were jointly filed by AEP-Ohio with Solvay and Kraton (collectively, Applicants), and by OMAEG on April 13, 2015. IEU-Ohio filed a notice electing not to file comments beyond those it had filed on January 12, 2015.

(15) On April 14, 2015, the Ohio Environmental Council (OEC), filed motions to intervene in both cases, as well as comments on behalf of OEC, the Natural Resources Defense Council, Environmental Law & Policy Center, and Environmental Defense Fund (collectively, Environmental Advocates) in both proceedings.

(16) On April 27, 2015, reply comments were filed jointly by the Applicants, IEU-Ohio, the Environmental Advocates, and OMAEG. Kraton also filed separate additional comments in Case No. 14-2304-EL-EEC.

Summary of the Applications:

(17) According to its application in Case No. 14-2296-EL-EEC, Solvay's planned CHP system is a natural gas-fired cogeneration system to be installed at the customer's Marietta, Ohio plant. The Solvay project's incremental capital cost of approximately $34 million is expected to produce a net present value of $6 million in savings over a 20-year life. In exchange for

commitment of these savings, AEP-Ohio has proposed to pay Solvay an annual incentive calculated at a half-cent per kilowatt hour $0.005/kWh for five years, beginning in 2015. These incentive payments are estimated to total $289,025 per year, or $1,445,125 over five years. AEP-Ohio is also requesting that the Commission permit the Utility to split the project's shared savings between 2015 and 2016, and exempt 20 percent of the shared savings from the $20 million annual shared savings cap approved *In re Columbus Southern Power Company and Ohio Power Company Applications for approval of Program Portfolio Plans*, Case No. 11-5568-EL-POR, et al., Opinion and Order (Mar. 21, 2012) at 7-10 (AEP-Ohio's Portfolio Plan Case).

(18) Kraton's application in Case No. 14-2304-EL-EEC for its planned Belpre Strategic Energy CHP Project includes replacement of two pulverized coal boilers with two steam boilers and a steam turbine generator at Kraton's Belpre, Ohio facility. The Project's incremental capital cost of approximately $7.8 million is expected to produce a net present value of $1.9 million in savings over a 20-year life. In exchange for commitment of these savings, AEP-Ohio has proposed to pay Kraton an annual incentive at $0.005/kWh for five years, beginning in 2015. These incentive payments are estimated to total $158,120 per year, or $790,600 over five years. AEP-Ohio is also requesting that the Commission permit the Utility to split the Project's shared savings between 2015 and 2016, and exempt 20 percent of the shared savings from the $20 million annual shared savings cap established in AEP-Ohio's Portfolio Plan Case.

<u>Summary of the Arguments:</u>

<u>Shared Savings Provisions</u>

(19) IEU-Ohio filed comments objecting to approval of the shared savings provisions with respect to both applications. IEU-Ohio notes that both the Solvay and Kraton applications propose to split the energy and demand savings, as well as AEP-Ohio's incentives, over two years (2015 and 2016), due to the size and impact of the projects. IEU-Ohio does not oppose approval of a commitment payment for either CHP project if the Commission finds that the commitment will lower AEP-Ohio's cost of EE/PDR compliance. However, IEU-Ohio asserts that the

shared savings proposals in both applications constitute amendments to AEP-Ohio's current portfolio plan, as they would increase the Utility's compensation for shared savings beyond the $20 million annual cap approved in AEP-Ohio's Portfolio Plan Case.

(20) IEU-Ohio contends that Section 7(B) of SB 310 prohibits the Commission from taking any action in 2015 or 2016 with regard to any portfolio plan except with respect an application to amend an existing portfolio plan under Section 6(B) of SB 310, or with respect to actions necessary to administer the implementation of the existing portfolio plan. IEU-Ohio argues that the instant applications do not fall within the latter exception, but actually constitute amendments of AEP-Ohio's Portfolio Plan that were not timely filed in accordance with Section 6(B) of SB 310. Therefore, IEU-Ohio insists, the Commission must reject AEP-Ohio's shared savings proposals in both applications. IEU-Ohio asserts that any increase in AEP-Ohio's compensation for shared savings would directly affect those IEU-Ohio members that were ineligible to opt out of AEP-Ohio's amended portfolio plan on January 1, 2015. Further, IEU-Ohio suggests that if the Commission permits AEP-Ohio to exceed the 20 percent cap on shared savings under the Utility's approved portfolio plan, the Commission should allow eligible customers an opportunity to opt out of AEP-Ohio's Portfolio Plan, as amended.

(21) OMAEG disagrees with IEU-Ohio's interpretation of SB 310. OMAEG does not believe that the Commission's approval of these applications would constitute amendments of AEP-Ohio's Portfolio Plan, as both projects can be included under the Utility's current portfolio plan. OMAEG argues that implementing a mechanism by which a mercantile customer may commit savings from its CHP system to a utility as a means to meet its compliance obligations and is incentivized in the process, is best interpreted as an action necessary to administer the implementation of an existing portfolio plan, as described in SB 310. OMAEG asserts that neither the authorization of a new resource nor any changes to AEP-Ohio's Portfolio Plan are necessary.

(22) OMAEG does, however, agree with IEU-Ohio that AEP-Ohio's request to exempt 20 percent of the shared savings calculated from the Kraton and Solvay CHP projects from the $20 million annual shared savings cap approved in AEP-Ohio's Portfolio Plan, would constitute an amendment of AEP's portfolio plan. OMAEG argues that since AEP-Ohio did not file an application to amend its portfolio plan prior to October 13, 2014 in accordance with Section 6(B) of SB 310, the $20 million annual shared savings cap continues to apply through the end of 2016, and prohibits AEP-Ohio from exceeding the cap on shared savings.

(23) The Applicants maintain that the proposed treatment of shared savings in these applications is permitted because the Kraton and Solvay CHP projects are covered as Custom Programs under the Utility's existing portfolio plan, and do not constitute amendments. The Applicants assert that all costs associated with these CHP programs will be recovered as part of the approved Custom Program costs for AEP-Ohio's plan that is being extended for 2015 and 2016. AEP-Ohio argues that despite the cap on shared savings, their portfolio plan separately permits incremental proposals (including incentives) under the Custom Program each of which is presented for approval by the Commission after input from interested parties. Further, they assert that Commission has authority under R.C. 4905.31 and R.C. 4928.66 to adopt a unique arrangement that includes the incremental shared savings proposed in both of these cases. In addition, they assert that the shared savings cap does not apply to prospective savings to accrue from the two projects under consideration here.

(24) As discussed below, we disagree with IEU-Ohio's interpretation of SB 310, and their contention that Commission approval of these applications would constitute amendments of AEP-Ohio's Portfolio Plan. We do, however, agree that the proposed treatment of shared savings would constitute a substantial modification of the $20 million annual shared savings cap approved in AEP-Ohio's Portfolio Plan, and direct that the applications be amended to void such provision.

Incentive Rates for CHP

(25) OMAEG and the Environmental Advocates contend that the Commission should unilaterally raise the half-cent per kWh incentive rate to encourage CHP projects in Ohio, consistent with the intent of SB 315, as these applications are likely to set a precedent for future CHP projects. OMAEG asserts that the half-cent rate is lower than rates paid in other states, and for other projects under AEP-Ohio's Custom Program. The Environmental Advocates argue that incentive levels should be high enough to encourage cost-effective CHP projects that would not otherwise be built without the incentive. They report that the Utility Cost Test (UCT) value for the Solvay project is 37.3, with total net benefits of $48.4 million in avoided transmission and generation costs, while the Kraton project UCT is valued at 36.1, with total net benefits of $26.3 million in avoided costs. In light of the substantial savings projected to accrue from these projects, the Environmental Advocates conclude that these projects would likely have occurred without the half-cent incentive to be paid by AEP-Ohio.

(26) Both OMAEG and the Environmental Advocates express concerns that these projects will set a precedent for future CHP incentives. Both urge the Commission to increase the incentive rate to encourage more CHP projects.

(27) OMAEG notes that AEP-Ohio has qualified the proposed Solvay and Kraton CHP projects as custom programs under the Utility's portfolio plan, for which the standard incentive for efficiency projects is $0.08/kWh saved, paid in the first year the savings occur. OMAEG contends that this standard efficiency incentive is considerably higher than the $0.025/kWh saved ($0.005/kWh saved for 5 years) that AEP-Ohio is offering to Solvay and Kraton under the terms of their respective agreements. Therefore, OMAEG recommends that the Commission over-ride these agreements and impose a minimum incentive of $0.007/kWh saved for CHP programs with the additional $0.002/kWh saved incentive paid to the manufacturer from AEP-Ohio's incentive for the project. OMAEG also requests that the Commission schedule a workshop in 12 months to evaluate such incentive mechanism.

(28) The Environmental Advocates suggest that the commitment of a CHP system should be viewed differently than a behavioral program for which the annual incentive is generally set at \$0.005/kWh. They reason that the large capital investment of a CHP system is motivation enough to ensure reliable operation of the system, and maximize its use, and assert that the available CHP turbines and engines have well-established efficiencies and 24/7 operating protocols that typically average downtime of 4%, and only 2% during peak hours. They note that both of the applications indicate that the Solvay and Kraton systems will run almost continuously through the year and cannot be turned off at the whim of the operator. The Environmental Advocates recommend the Commission set a range of tiered incentives based upon the achieved efficiency of the CHP system, and propose a range of \$0.07 to \$0.08 per kWh as found in other states.

(29) The Environmental Advocates also criticize the current incentive structure of the proposals as being insufficient to offset the substantial upfront costs of these CHP projects. They argue that the more incentives given upfront to a CHP developer will result in a faster payback on a CHP system, and attract more customers to consider CHP projects for their facilities. They conclude that the current half-cent annual incentive structure will not support most economically viable CHP programs.

(30) The Applicants reject these assertions that the incentive rate is too low, given that Solvay and Kraton have each already agreed to AEP-Ohio's half-cent rate in their respective cases. Further, they dispute OMAEG's allegations that the proposed half-cent rate is out of line with customer incentives under the Utility's Custom Program. AEP Ohio contends that it has no expectation that Commission approval of the Solvay and Kraton applications will set an incentive level for all future CHP projects in AEP Ohio's service territory or the rest of Ohio. The Applicants argue that each project should be reviewed on its own financial merits, and incentives should be based on the CHP percent of total portfolio limits in law, the Utility's plan budgetary considerations, and the cost effectiveness of CHP versus other energy efficiency projects.

(31) The Applicants claim that the $0.08/kWh incentive rate suggested by OMAEG is only available for smaller Custom projects through AEP-Ohio's Custom program. Further, they assert that under the Utility's reverse auction Bid4Efficiency program in October 2014 for 2015 projects, several individual auctions closed at the same overall incentive pricing as the Solvay and Kraton applications, while none of the largest auctions closed at the incentive levels recommended by OMAEG and the Environmental Advocates.

(32) Moreover, the Applicants contend that the incentives paid to the CHP customer and the shared savings received by the Utility are simply not comparable. They assert that the customer's incentive is based on the amount needed to encourage and support the CHP project for the customer, whereas the total net benefit and shared savings is based on the value to all customers for these very large projects. They argue that large projects such as the Solvay and Kraton help the cost effectiveness and value of the Utility's entire portfolio, and that AEP-Ohio is encouraged to be as cost effective as possible by the shared savings mechanism.

(33) For the reasons discussed below, we decline to adopt the suggestions of the Environmental Advocates and OMAEG to adopt particular levels or structures of incentives for CHP projects, at this time.

CHP Projects as Capacity Resources

(34) Both the Environmental Advocates and OMAEG also suggest that AEP-Ohio should be required to develop a plan to qualify CHP projects as capacity resources so that the energy efficiency attributes may be bid into the PJM Interconnection L.L.C. ("PJM") capacity market. They argue that CHP represents a lower cost capacity resource and that bidding the energy efficiency attributes would likely have the effect of suppressing the price of capacity resources in the PJM auctions. OMAEG notes that AEP-Ohio's Custom Program has a $25,000 per project incentive cap, and that projects that exceed such cap are typically bid into the PJM auction program, which generally results in higher project rebates clearing at lower incentive rates. They suggest that the Commission direct AEP-Ohio to develop a plan

with the Utility's collaborative to include CHP capacity in its PJM bid.

(35) The Applicants contest any suggestion that AEP-Ohio be required to bid the demand reductions from these CHP Projects into the PJM capacity auctions, as the Utility is not required to do so under its current approved portfolio plan. The Environmental Advocates counter this argument by asserting that AEP-Ohio has, in the past, bid energy efficiency into the PJM capacity auction even when not required to do so under its current approved portfolio plan. Therefore, they conclude, requiring the Utility to bid CHP demand reductions from these CHP Projects into the PJM capacity auctions would not modify the Utility's current plan.

(36) For the reasons discussed below, we decline to direct AEP-Ohio to develop a plan to qualify CHP projects as PJM capacity resources, at this time.

Length of Project Commitment

(37) *In re 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 (Feb. 11, 2015) at 5, 6 (*Jay Plastics*), the Commission held that for customers committing a CHP energy efficiency project to an electric distribution utility, the project must be committed to the utility for the life of the project. However, SB 310 added R.C. 4928.6611, which generally provides that certain large commercial and industrial customers may opt out of the opportunity and ability to obtain direct benefits from the utility's portfolio plan, beginning January 1, 2017.

(38) In their comments filed on April 13, 2015, the Applicants assert that the *Jay Plastics* decision should not prohibit Kraton and Solvay from electing to opt out of AEP's EE/PDR Rider pursuant to added R.C. 4928.6611. The Applicants indicate that Kraton intends to receive incentive payments in 2015 and 2016 in connection with committing its CHP project to AEP-Ohio, and also opt out of the EE/PDR rider in 2017, which would cause the incentives resulting from its commitment to be discontinued.

(39) AEP-Ohio intends to continue counting the savings associated with the Kraton project for the lifetime of the project. The Applicants argue that R.C. 4928.6611 does not specifically address the situation in which a mercantile customer receives portfolio program incentives associated with a particular energy efficiency project but then exercises its right to opt out of the EE/PDR Rider. They assert that 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, and that the Utility's counting of the measure for the life of a project should not prohibit the right of the investing business customer to opt out of the rider, as the goal is to encourage EE/PDR programs. The Applicants maintain that it would chill future investment, 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. They urge the Commission to distinguish *Jay Plastics* from these cases to preserve the Customers' rights to opt out of the rider while permitting the Utilities to count the lifetime measures associated with projects that are implemented prior to the Customers' opt out. They warn that failure to make this distinction will unnecessarily raise compliance costs, and create a significant administrative burden for the Utility.

(40) Finally, AEP-Ohio and Kraton request a modification of their joint application in the event that the Commission determines that *Jay Plastics* should apply and the CHP measures approved herein must be committed for the life of the CHP project, thereby prohibiting the customers from opting out in 2017. In that event, Kraton would have the Commission amend its application to grant a rider exemption in place of the series of payments under R.C. 4928.66(A)(2)(c); and AEP-Ohio and Kraton would update the underlying documents to accommodate such a change if ordered by the Commission.

(41) As discussed below, we acknowledge the statutory right under R.C. 4928.6611 for Kraton and Solvay to opt out of AEP-Ohio's EE/PDR Rider in 2017. We do not, however, find it necessary to

address at this time the issue of AEP-Ohio's inclusion of future project savings should such opt-outs occur in 2017.

Kraton Additional Comments

(42) In separate additional comments filed in Case No. 14-2304-EL-EEC, Kraton notes that each of the intervening parties has indicated general support for its CHP project. Kraton also states that its decision to develop this CHP project and to commit the EE/PDR savings to AEP-Ohio was, in part, based upon the availability of incentive payments under Ohio law, as well as this Commission's prior approval of AEP-Ohio's Portfolio Plan. Kraton further states that, as a mercantile customer, it has no position at this point in time regarding any of the policy concerns expressed by the various interveners, but asserts that Case No. 12-2156-EL-ORD is the proper proceeding in which to consider such policy debates, as proposed changes to implement SB 315 with respect to the alternative energy portfolio standard rules in Ohio Adm.Code Chapter 4901:1-40 are currently pending in that venue. Kraton argues that the Commission should recognize that the applicant's decision to accept AEP-Ohio's incentive payments was a business decision made at one point in time by one company based upon existing regulations and AEP-Ohio's approved portfolio plan, and the set of unique economic facts applicable to that one company. Accordingly, Kraton suggests that its agreement with AEP-Ohio should not be deemed to set any sort of precedent, nor fix the level of incentives for any other deal between a mercantile customer and an electric service provider.

(43) Further, Kraton argues that changes to AEP-Ohio's approved portfolio plan will likely also result in changes to Kraton's economic risks that were known and evaluated at the time of its agreement with the Utility, but before the Commission has had the opportunity to weigh fully the positives and negatives of the issues raised by third-party intervenors, such as the suggestion that the Utility be required to bid the energy efficiency attributes of CHP projects as a capacity resource into the PJM capacity market. Kraton notes that such a commitment is not an option under current PJM rules, and asserts that in the event such a commitment should become required, both AEP-Ohio and

Kraton should be afforded an opportunity to re-assess the economics of their present commitment.

Findings:

(44) We first note that, with respect to both applications, our approval is based upon our review of the records in each case, and should not be construed as any sort of precedent, or mandate with respect to the level of incentives for CHP installations. Any broader ruling with respect to the issues discussed herein should more properly be addressed in a generic or rules proceeding. For this reason, we decline to adopt the suggestions of the Environmental Advocates and OMAEG to adopt particular levels or structures of incentives for CHP projects, or to require AEP-Ohio to develop a plan to qualify CHP projects as PJM capacity resources, at this time.

(45) We also observe that each of the intervening parties has indicated general support for these CHP projects, and none has objected to either CHP project as being unreasonable. Further, we appreciate the comments of Kraton that its business decision to develop its CHP project and commit the EE/PDR savings under SB 315 to AEP-Ohio was, in part, based upon the availability of incentive payments and AEP-Ohio's approved portfolio plan. With respect to either case, neither Solvay nor Kraton has joined the Environmental Advocates and OMAEG to urge this Commission to increase their incentives. For that reason, we decline to adopt the recommendations of the Environmental Advocates and OMAEG to unilaterally raise the incentive rates for the Solvay and Kraton CHP projects.

(46) We also note that in both applications, AEP-Ohio indicates that neither should be construed as an amendment of its portfolio plan approved in Case No. 11-5568-EL-POR, and that the Utility will withdraw these applications if the Commission approval would constitute a request to amend its current plan. We agree with OMAEG that our approval of these applications does not constitute an amendment of AEP-Ohio's current portfolio plan, as both applications are appropriately included as custom projects under the Utility's current portfolio plan.

(47) We do, however, also agree with IEU-Ohio and OMAEG that AEP-Ohio's recovery of shared savings in 2015 and 2016 in

excess of the caps under the Utility's approved portfolio plan would amount to a substantive amendment of the plan. Accordingly, we will deny AEP-Ohio's request to recover shared savings in excess of the portfolio plan cap, and approve the applications as so modified.

(48) Further, we believe that the Applicants proposal to split each of the project's shared savings between 2015 and 2016 is reasonable, and no party has recommended against the adoption of this provision. Accordingly, AEP-Ohio is directed to divide each CHP project's shared savings evenly between 2015 and 2016.

(49) Finally, notwithstanding our prior decision in *Jay Plastics*, we do not believe our approval of the applications under consideration here, will negate any option of Kraton or Solvay to opt out of AEP-Ohio's EE/PDR Rider in 2017 pursuant to R.C. 4928.6611. Further, as noted above, these dockets are not the proper forum to address the broader issue of AEP-Ohio's inclusion of future project savings should such opt-outs occur in 2017.

Order

It is, therefore,

ORDERED, That the joint applications in both cases be approved as modified herein. It is, further, ORDERED, That a copy of this Finding and Order be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Andre T. Porter, Chairman

Lynn Slaby

M. Beth Trombold

Asim Z. Haque

Thomas W. Johnson

RMB/dah

Entered in the Journal

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Barcy F. McNeal

Barcy F. McNeal
Secretary