



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

**Region I – New England
5 Post Office Square, Suite 100
Boston, MA 02109-3912**

Sent via FOIAonline

Date: See signature stamp below

Zachary Fabish
Sierra Club
50 F Street, NW 8th Floor
Washington, DC 20001

RE: Freedom of Information Act (FOIA) Request No. EPA-R1-2023-000838 f/k/a EPA-R1-2023-000316

Dear Mr. Fabish:

This is in response to the confidential business information (CBI) portion of your FOIA request of October 14, 2022, **for specific information pertaining to the Schiller Station Power Plant, located in Portsmouth, New Hampshire.**

On November 2, 2022 & November 9, 2022, EPA provided you with interim responses, which, together, consisted of **19** non-privileged documents, **2** documents withheld in part pursuant to Exemption 6 – personal privacy, 5 U.S.C. § 552(b)(6) and **1** document withheld in part pursuant to Exemption 5 – deliberative process privilege and attorney-client privilege, 5 U.S.C. § 552(b)(5).

As part of the November 9, 2022, response, we informed you Region 1 had determined that one additional document (a 36-page report dated June 21, 2021) was responsive to your request but may have contained CBI, trade secrets, commercial or financial information which is exempt from disclosure under 5 U.S.C. 552(b)(4), over which GSP Schiller or its contractors had asserted a claim of business confidentiality. Pursuant to 40 C.F.R. 2.204(d)(1), this portion of your request was ***initially denied*** because further inquiry by EPA was required before a final determination could be made.

We have consulted with the third party covering these records and Region 1's Office of Regional Counsel and after careful review of the information and the comments provided by GSP Schiller, the Regional Counsel, Carl Dierker, determined that certain information qualifies as CBI and is therefore exempt from disclosure under Exemption 4 of the FOIA, 5 U.S.C. 552(b)(4). *See Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356 (2019). Accordingly, EPA is releasing, via FOIAonline, a redacted version of this June 21, 2021 report in response to your

request. This decision is the Agency's final determination with regards to this information. *See* 40 C.F.R. § 2.205(e).

If you need any further assistance or would like to discuss any aspect of your request, you may seek assistance from EPA's FOIA Public Liaison at hq.foia@epa.gov or call (202) 566-1667. You may also seek assistance from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001; email: ogis@nara.gov; telephone: (202) 741-5770 or (877) 684-6448; or fax: (202) 741-5769. For all media inquiries, please contact press@epa.gov.

Sincerely,

Ken Moraff, Director
Water Division

Enclosure (see provided FOIAonline link)

cc: Cris Schena, R1 FOI Officer