

Department of Energy & Climate Change

3 Whitehall Place,
London SW1A 2AW

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www.decc.gov.uk

Your ref:

Our ref:

22 January 2013

Dear

RE: European Commission 'Infringement Notice': Pembrokeshire power station

Thank you for your request of 20 December 2012 for the release of correspondence between the European Commission (“EC”) and the UK Government relating to the Formal Notice of Infringement that the European Commission has sent to the Government in respect of the RWE npower power station in Pembrokeshire.

The information you have requested constitutes environmental information for the purposes of regulation 2(1) of the Environmental Information Regulations 2004 (the “EIRs”) and therefore, your request has been considered under the EIRs, rather than under the terms of the Freedom of Information Act 2000 (see Section 39¹).

I confirm that we do hold information which falls within the scope of your request. However, following careful consideration, I regret to inform you that we have decided not to disclose this information.

The information you requested is being withheld under Regulation 12(5)(a) of the EIRs which relates to information which, if disclosed, would adversely affect international relations. In applying regulation 12(5)(a), we have had to balance the public interest in withholding the information against the public interest in disclosure (applying, of course, the presumption in favour of disclosure as required by regulation 12(2) of the EIRs).

¹ <http://www.justice.gov.uk/downloads/information-access-rights/foi/foi-exemption-s39.pdf>

There is a general public interest in favour of disclosure of information as greater transparency makes government more open and accountable. We also acknowledge the current public interest in environmental issues and in particular where those may raise questions over public safety. However, disclosure of these documents would damage the relationship of trust and confidence the United Kingdom has with the European Commission. The process by which the EC corresponds with Member States is a bilateral iterative one in which the EC is able to express any concern it has about the implementation of European law in a particular Member State and that State is able to set out, in an equally free and frank manner, its views on the points raised by the EC. This frank and confidential exchange of views greatly increases the prospects of reaching a speedy settlement of the matter.

For these reasons, we consider that the public interest in maintaining this exemption outweighs the public interest in disclosing the information.

If you are unhappy with the way the authority has handled your request, you may ask for an internal review. Please contact the Information Rights Unit at foi@decc.gsi.gov.uk who will arrange an internal review of your case. Under Regulation 11(2) this needs to be done no later than 40 working days after the date of this letter.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours sincerely