

ESB RETIRED STAFF ASSOCIATION

ESTABLISHED 1974

NATIONAL EXECUTIVE COMMITTEE

T. COLLINS
CHAIR

M. MACNAMARA
SECRETARY

A. McCAFFERTY
TREASURER

J. NUGENT
VICE-CHAIR

Pat O'Doherty
ESB Chief Executive
27 Lower Fitzwilliam Street
Dublin 2

Ebilou,
Loughlinstown,
Celbridge,
Co. Kildare

3rd March 2015

Re: ESB Retired Staff Association Protest 3rd March 2015

Dear Chief Executive,

ESB Retired Staff Association (ESBRSA) wish to protest in the strongest possible way on the following issues and the lack of progress in arriving at a solution:

- ESB's refusal to contribute to the Government Pension Levy on ESB Pension Scheme
- ESB's commitment as co-sponsor of ESOT to arrive at a solution to the problems surrounding the operation of the Internal Markets for the sale of shares
- ESBRSA's mandate to act as pensioner representatives and their right to negotiate on behalf of ESB retired staff on issues that affect their future financial security
- ESB investing nearly €2 billion in power station projects in the UK which will yield huge returns for the Company in future years and they have also paid nearly €2 billion in ordinary and special Dividends to the Exchequer in the last 10 years while there have been serious difficulties and deficits in the Pension Fund during this period.
- ESB's commitment as sponsoring Employer to support the ESB Defined Benefit Pension Scheme as originally intended in the Superannuation Acts, 1942 and as clearly stated by the then Chief Executive, Mr. Joe Moran, and the then Minister for Energy, Mr. Michael Lowry, at the time of negotiations on the tripartite CCR Agreement in 1994.

The major concern for ESBRSA is ESB's failure to incorporate the Energy (Miscellaneous Provisions) Act 1995 into the Pension Scheme rules and to comply with its statutory responsibility under this legislation. It is unbelievable that some ESB Senior Managers concealed this legislation from Pension Scheme members, Unions and the Fund actuary until the Group of Unions became aware of its existence during the dispute in December 2013.

When the Cost and Competitive Review (CCR) was launched in February 1994, one of your predecessors Mr. Joe Moran described the CCR as a "*unique*" initiative. "*The CCR*" said the Chief Executive, "*is worthy of this term. Nowhere in the world will you find Government representatives sitting down with management and unions as equal partners in a process to determine the future of a company which they own*" Prior to the ballot of trade union members in March 1996 Mr. Moran stated "*make no mistake - the very future of ESB is at stake in the CCR ballot.*"

In order to underpin guarantees in relation to the Pension Scheme, and as a party to the Tripartite Agreement (CCR), the Government enacted The Energy (Miscellaneous Provisions) Act 1995 which set out the ESB responsibility for the Pension Fund in section 20. This makes the scheme a typical "Balance of Cost" scheme in Law, and requires ESB solely, to be responsible for any deficits that may arise from time to time. This legislation was never incorporated into the rules of the ESB Pension Scheme and apparently pensioners, staff, fund actuary, fund trustees and Trade Unions were not aware of its existence until December 2013.

ESBRSA find it unbelievable that given ESB's statutory responsibility under the Energy (Miscellaneous Provisions) Act 1995 the Company entered into negotiations with ESB Group of Unions on Pension Fund deficits in 2005 and 2010. Pensioners were seriously disadvantaged as a result of this 2010 agreement with unions which broke the link with staff salaries and made any future pension increases conditional on the Pension Fund passing a solvency test.

In effect, the 2010 Pensions agreement was entered into under false pretences because the Trade Unions were never informed about the existence of the legislation and indeed would not have made that agreement if they were aware of its existence. It is now clear that ESB was in breach of its statutory responsibility under the 1995 Act to the detriment of pensioners.

We are requesting an urgent meeting to discuss the above.

Yours sincerely,

Michael MacNamara Hon Secretary,

National Executive

ESB Retired Staff Association