Mr. Pat O’Doherty, Ebilou,

ESB Chief Executive, Loughlinstown

27 Lower Fitzwilliam Street, Celbridge

Dublin 2 Co. Kildare

14th April 2015

Dear Mr. O’Doherty,

I’m writing to you on behalf of ESB Retired Staff Association (ESBRSA), who represent the majority of ESB pensioners, with regard to Pension issues in ESB.

ESBRSA understand that that the results of the 2014 Actuarial Valuation on the ESB Pension Scheme will be published later this month. Pensioners are majority stakeholders in the Pension Scheme and ESBRSA as representatives of the majority of pensioners believe that they should be involved in any discussions on the results of the Valuation.

Following a large Pension Scheme deficit in the 2008 Actuarial Valuation of €1.9 Billion, both ESB and ESB Group of Unions entered into an “Arrangement” on Pensions, which was concluded in 2010. ESBRSA were excluded from having any input to this “Arrangement” and were also excluded from voting on the final terms, despite being majority stakeholders in the Pension Scheme. This “Arrangement” effectively did a u-turn on the pre-existing pension arrangements for pensioners. Pensions were effectively reduced under this “Agreement” by breaking the link with staff salaries.

Consequently, ESBRSA do not recognise the “Arrangement” and believe that the vast majority of pensioners should not be subject to it at all. The 2010 Agreement was entered into long after most pensioners had retired from ESB. The conditions that should apply to most pensioners are those conditions that prevailed at the time of their retirement.

ESBRSA also believe that this so called agreement entered into by these two parties is detrimental to pensioners who were not party to the agreement and is unconstitutional as demonstrated in a previous Supreme Court Ruling in relation to Registered Employment Agreements (REAs) i.e. It is unconstitutional for two private parties to make an agreement which attempts to be binding on a third party when that third party was not party to the original agreement.

Under the terms of this 2010 “Agreement” between ESB and ESB Group of Unions on pensions the “pay freeze” on pensions expired on 31st December 2013. However, pensioners are being subjected to “an indefinite pay freeze” due the fact that no pension increase can be granted unless the scheme actuary determines that the Pension Scheme is solvent after the granting of such increase. ESBRSA received a letter to this effect from ESB Pensions Manager. It stated that the Actuary found in 2014 that the solvency test wasn’t met. This is contrary to what the Actuary stated during a very public dispute with ESB group of Unions in December 2013. He stated during that dispute that ESB Pension Fund was solvent and “in balance” and this was accepted by all parties to the dispute. There was also a public statement by the then Minister for Energy, Communications & Natural Resources, Pat Rabbitte that there were “no current difficulties with ESB Pension Fund and there was no deficit in the Fund”.

There is also provision for an annual revaluation of pensions for current staff by CPI + 1% under the terms of this 2010 “Agreement”. Is this annual revaluation also subject to a solvency test in the same way as increases for pensioners? ESBRSA engaged the services of an independent Actuary to report on the how pensioners have been disadvantaged compared to serving staff pensions and he found that over a 10 year period pensions would be reduced by 30% if pensioners received no pension increases for that period, allowing assumptions for inflation.

ESBRSA hope that a similar situation to the 2008 Actuarial Valuation will not arise following the release of the 2014 Pension Scheme Valuation results and that ESB and the Trade Unions involved will not flout the law when it comes to discussions on the outcome of this Valuation and that ESBRSA will be invited to participate in discussions.

I look forward to hearing from you regarding the above.

Yours sincerely,

Michael MacNamara, Hon Secretary,

National Executive,

ESB Retired Staff Association

Copy to Trade Unions: ESU, SIPTU, TEEU, UNITE.

Copy to ESB Chairperson.