



08 March 2017

Ms Deirdre Jennings,
dejennin@tcd.ie

Re: FOI request refusing request FOI 2017 31

Dear Deirdre

I refer to your request dated 08 February 2017 made under the Freedom of Information Act 2014, which was received on 08 February 2017 for records held by the Department of Communications, Climate Action and Environment. Your request sought:

“I would be grateful if you can provide this additional report under Section 13.1 that was sent to the Minister from the ESB with the annual report for the years 2007 – 2011.”

I, Brian Loughlin have now made a final decision to refuse your request on 27 February 2017.

The purpose of this letter is to explain that decision. This explanation has the following parts:

1. a schedule of all of the records covered by your request;
2. an explanation of the relevant findings concerning the records to which access is denied, and
3. a statement of how you can appeal this decision should you wish to do so.

This letter addresses each of these three parts in turn.

1. Schedule of records

A schedule is enclosed with this letter, it shows the documents that [the Department of Communications, Climate Action and Environment considers relevant to your request. It describes each document and refers to the sections of the FOI Act which apply to prevent release. The schedule also refers you to sections of the detailed explanation given under heading 2 below, which are relevant to the document in question. It also gives you a summary and overview of the decision as a whole.

2. Findings, particulars and reasons for decisions to deny access

The sections of the Act which can apply to deny access to documents are known as its exemption provisions.

The FOI Act 2014 applies to ESB Networks Limited only in so far as records concern its functions under its DSO licence. ESB is not an FOI Body, pursuant to Schedule 1 Part 2 of the FOI Act which provides that the ESB Group is an Exempt Body for the purposes of the FOI Act. Reports submitted by the Chair to the Minister are supplied in confidence and therefore the request is refused on the grounds of Section 35 (1) (a) of the Freedom of Information Act 2014

“35. (1) Subject to this section, a head shall refuse to grant an FOI request if—

(a) the record concerned contains information given to an FOI body, in confidence and on the understanding that it would be treated by it as confidential (including such information as aforesaid that a person was required by law, or could have been required by the body pursuant to law, to give to the body) and, in the opinion of the head, its disclosure would be likely to prejudice the giving to the body of further similar information from the same person or other persons and it is of importance to the body that such further similar information as aforesaid should continue to be given to the body”

3. Rights of appeal

In the event that you are not happy with this decision you may seek a review of this decision by writing to the Freedom of Information Unit, Department of Communications, Energy and Natural Resources, Elm House, Earlsvale Road, Cavan, Co Cavan or alternatively by emailing FOI.UNIT@dcenr.gov.ie. You should make your appeal within 4 weeks (20 working days) from the date of this notification, where a day is defined as a working day excluding, the weekend and public holidays, however, the making of a late appeal may be permitted in appropriate circumstances.

The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this body.

Yours sincerely,

Brian Loughlin
Corporate Governance Division