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**RICHARD CORCORAN**  
*Speaker of the House of  
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December 4, 2017

Walt Trierweiler, Esq.  
Office of General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0854

Re: Docket No. 20170151 – Heather Hills Utilities, LLC – Application for authority to transfer water and wastewater Certificate Nos. 577-W and 498-S in Manatee County

Dear Mr. Trierweiler:

The Office of Public Counsel (OPC) has identified a deficiency in the Application for Authority to Transfer (Application) submitted by Heather Hills Utilities, LLC (Utility) in the above-referenced docket. Rule 25-30.037(2)(i), Florida Administrative Code, requires a copy of the contract for sale and all auxiliary or supplemental agreements be provided in any application for authority to transfer. Here, the Utility provided an incomplete copy of the Agreement for Purchase and Sale of Water Assets in as much as Exhibit "A" to this Agreement was omitted from the filing. Accordingly, OPC requests the Utility file a copy of Exhibit "A" with the Public Service Commission to bring its application within the requirements of Rule 25-30.037(2)(i), Florida Administrative Code.

Additionally, OPC requests staff to consider the impact of current legal disputes surrounding The Heather Hills Rules and Regulations (the 1967 Restrictions) which purportedly provide the Utility with its right to continued long-term use of the land for the construction, operation and maintenance of the Utility system. See Exhibit 9 to the Application. On March 24, 2014, Judge Gilbert Smith Jr., found the Marketable Record Title Act (MRTA) extinguishment provisions applied to the 1967 Restrictions as to two properties within Heather Hills Estates, Unit 1. Janet Voorheis v. Rick & Chris Stephens, LLC., Case No. 2011-CA-01375, Manatee County. In his ruling, Judge Smith found that MRTA rendered the 1967 Restrictions unenforceable as to the Plaintiff's two parcels.

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The enforceability of the 1967 Restrictions continues to be in dispute and the subject of litigation as it is more than likely MRTA extinguishes the 1967 Restrictions as to other, if not all, parcels within the community. As a result, the Commission should require documentation beyond the 1967 Restrictions demonstrating the Utility's right to access and continued use of the land upon which the Utility's lines and facilities are located before approving any transfer to a new owner. In addition, OPC objects to the customers being made responsible for fees and/or assessments relating to the Utility's right to access and continued use of the land that may be the subject of any future proceeding.

Sincerely,

*s/ Virginia L. Ponder*

Virginia L. Ponder  
Associate Public Counsel

cc: Division of Engineering (Melinda Watts)