

IN THE INDIANA COURT OF APPEALS
Case No. 18A-EX-00095

<p>CITIZENS ACTION COALITION OF, INDIANA, INC.,</p> <p style="text-align:center">Appellant (Respondent- Intervenor Below),</p> <p style="text-align:center">v.</p> <p>SOUTHERN INDIANA GAS AND ELECTRIC COMPANY, d/b/a VECTREN ENERGY DELIVERY OF INDIANA, INC.,</p> <p style="text-align:center">Appellee (Petitioner Below).</p>	<p>Appeal from the Indiana Utility Regulatory Commissioner</p> <p>IURC Cause No: 44645</p> <p>The Hon. David E. Ziegner, Commissioner</p> <p>The Hon. Loraine L. Seyfried, Chief Administrative Law Judge.</p>
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**Motion for Leave to File Short Surreply Brief
To Address New Arguments and Authority in Reply Brief**

Southern Indiana Gas & Electric Company, which does business as Vectren Energy Delivery of Indiana, Inc. (“Vectren”), pursuant to Appellate Rules 1, 46(C), and 48, respectfully moves for leave to file a short Surreply Brief, attached as Exhibit A, to address new arguments and a new authority in the Reply Brief of the Appellant Citizens Action Coalition of Indiana, Inc. (“CAC”).

CAC filed its Reply Brief on July 10, 2018. It raises new arguments under the Supreme Court’s opinion in *NIPSCO Indus. Grp. v. N. Indiana Pub. Serv. Co.*, 100 N.E.3d 234 (Ind. 2018). Neither the Brief of Appellant nor Brief of Appellee discusses *NIPSCO*. It also raises a new argument (and departs from its previous argument) about whether the Indiana Utility Regulatory Commission must consider a utility’s total revenues and expenses (hundreds of millions of dollars in this case) when it issues an order under Ind. Code § 8-1-8.5-10.

Appellate Rule 45 does not contemplate a surreply. However, Rule 1 allows the Court to deviate from Rule 45 and to accept a surreply, upon the motion of a party. Rule 46(C) instructs that a reply brief shall not contain new issues. Rule 48 also permits parties to submit new authorities to the Court. In this case, Vectren believes the Reply Brief addresses new issues and a recently published, new authority.

Vectren respectfully tenders a short, surreply brief—containing only 1,179 words of argument—to address the new legal authority and new arguments, and in hopes it will assist in the determination of this matter by the Court of Appeals.

THEREFORE, Appellee Southern Indiana Gas & Electric Company, pursuant to Appellate Rules 1, 46(C), and 48, respectfully moves for leave to file a short Surreply Brief, attached as Exhibit A.

Respectfully submitted,

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Certificate Of Service

The undersigned certifies that, on July 18, 2018, the foregoing was filed electronically using the Court's IEFIS pursuant to Rule 68(C) and that service was made on the following through E-service using the Public Service Contact List in accordance with Rules 24(C) and 68(F)(1):

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