

No. 21-60743

---

**In the United States Court of Appeals  
for the Fifth Circuit**

STATE OF TEXAS; GREG ABBOTT, GOVERNOR OF THE STATE OF  
TEXAS; TEXAS COMMISSION ON ENVIRONMENTAL QUALITY;  
FASKEN LAND AND MINERALS, LIMITED; PERMIAN BASIN LAND AND  
ROYALTY OWNERS,  
*Petitioners,*

v.

NUCLEAR REGULATORY COMMISSION; UNITED STATES OF  
AMERICA,  
*Respondents.*

---

On Petition for Review of Action by the  
Nuclear Regulatory Commission

---

**UNOPPOSED MOTION TO EXTEND TIME TO FILE  
RESPONSE TO PETITIONS FOR REHEARING EN BANC**

---

Petitioners the State of Texas, Governor Greg Abbott, and the Texas Commission on Environmental Quality respectfully request a 30-day extension of the time in which to file their response to the petitions for rehearing en banc. Respondents Nuclear Regulatory Commission and the United States are unopposed to this motion, as is Intervenor Interim Storage Partners, LLC. Petitioners Fasken Land and Minerals, Limited and Permian Basin Land and Royalty Owners consent to the extension and request that the Court set a uniform briefing deadline for all responses. In support of this motion, Petitioners show the following:

1. Respondents and Intervenor filed petitions for rehearing en banc on October 24, 2023. On November 1, two movants—the Nuclear Energy Institute, Inc. and Holtec International—sought leave to file briefs as amici curiae in support of Respondents and Intervenor.

2. This Court called for a response to the petitions for rehearing on October 30, making Petitioners’ response due November 9.

3. Petitioners ask the Court to set a new deadline of December 11, 2023.\*

4. Petitioners’ request for an extension of time is necessary because of undersigned counsel’s preexisting obligations on multiple matters, including:

- drafting a reply brief on the merits in *Texas v. Zurawski*, No. 23-0629 (Supreme Court of Texas) (filed Oct. 31, 2023);
- drafting a reply brief on the merits in *Texas v. Harris County*, No. 23-0656 (Supreme Court of Texas) (due Nov. 7, 2023);
- drafting appellee’s opening brief in *Richardson v. Texas*, No. 23-40526 (5th Cir.) (due Nov. 9, 2023);
- presenting argument in *Paxton v. Commission for Lawyer Discipline*, No. 05-23-00128-CV (Fifth Court of Appeals) (set for Nov. 15, 2023);
- drafting appellant’s opening brief in *Texas v. City of Houston*, No. 03-23-00531-CV (Third Court of Appeals) (due Nov. 22, 2023);
- presenting argument in *Texas v. Harris County*, No. 23-0656 (Supreme Court of Texas) (set for Nov. 28, 2023); and

---

\* A 30-day extension would extend the deadline to December 9, 2023, which falls on a Saturday.

- presenting argument in *Harrison v. Young*, No. 23-10223 (5th Cir.) (set for Dec. 8, 2023).

5. This extension is sought in the interest of justice, not for delay, and no party will be prejudiced if this unopposed request for an extension is granted.

### CONCLUSION

Petitioners' deadline to file their response to the petitions for rehearing en banc should be extended 30 days, to and including Monday, December 11, 2023.

Respectfully submitted.

KEN PAXTON  
Attorney General of Texas

BRENT WEBSTER  
First Assistant Attorney General

Office of the Attorney General  
P.O. Box 12548 (MC 059)  
Austin, Texas 78711-2548  
Tel.: (512) 936-1700  
Fax: (512) 474-2697

/s/ Lanora C. Pettit  
LANORA C. PETTIT  
Principal Deputy Solicitor General  
Lanora.Pettit@oag.texas.gov

MICHAEL R. ABRAMS  
Assistant Solicitor General

Counsel for Petitioners State of  
Texas, Governor Greg Abbott, and  
Texas Commission on Environmen-  
tal Quality

**CERTIFICATE OF CONFERENCE**

On November 1, 2023, the parties conferred regarding this motion, and counsel for Federal Respondents and Intervenor are unopposed to the relief requested.

/s/ Michael R. Abrams  
MICHAEL R. ABRAMS

**CERTIFICATE OF SERVICE**

On November 2, 2023, this response was served via CM/ECF on all registered counsel and transmitted to the Clerk of the Court. Counsel further certifies that: (1) any required privacy redactions have been made in compliance with Fifth Circuit Rule 25.2.13; (2) the electronic submission is an exact copy of the paper document in compliance with Fifth Circuit Rule 25.2.1; and (3) the document has been scanned with the most recent version of Symantec Endpoint Protection and is free of viruses.

/s/ Lanora C. Pettit  
LANORA C. PETTIT

**CERTIFICATE OF COMPLIANCE**

This document complies with: (1) the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 394 words, excluding exempted text; and (2) the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6) because it has been prepared in a proportionally spaced typeface (14-point Equity) using Microsoft Word (the same program used to calculate the word count).

/s/ Lanora C. Pettit  
LANORA C. PETTIT