

SUPREME COURT OF THE UNITED STATES

Nuclear Regulatory Commission v. Texas

605 U.S. 665 (2025) · No. 23-1300; 23-1312 · Decided June 18, 2025

SUMMARY

The Supreme Court held that Texas and Fasken Land and Minerals were not entitled to judicial review of the Nuclear Regulatory Commission's licensing decision because they were not parties to the Commission's licensing proceeding. The Court concluded that submitting comments or unsuccessfully seeking intervention did not confer party status under the Atomic Energy Act and Hobbs Act. The Court reversed and remanded without deciding whether the Commission had authority to license a private off-site facility for spent nuclear fuel storage.

CASE DETAILS

COURT	Supreme Court of the United States
WRITING FOR THE COURT	Justice Kavanaugh; Chief Justice Roberts; Justice Sotomayor; Justice Kagan; Justice Barrett; Justice Jackson; Justice Gorsuch; Justice Thomas; Justice Alito
JURISDICTION	Supreme Court of the United States
DECIDED	June 18, 2025
DOCKET	23-1300; 23-1312
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Nuclear Regulatory Commission and Interim Storage Partners petitioned for certiorari after the Fifth Circuit vacated the NRC's license authorizing a private, off-site spent-nuclear-fuel storage facility. The Supreme Court reviewed whether Texas and Fasken were entitled to judicial review of the NRC's licensing decision.
STANDARD OF REVIEW	The Court reviewed the legal question of statutory entitlement to judicial review and the interpretation of the Hobbs Act and Atomic Energy Act de novo.
PRECEDENTIAL VALUE	precedential
PARTIES	Nuclear Regulatory Commission, Interim Storage Partners, LLC v. Texas, Fasken Land and Minerals, Ltd.

TOPICS

judicial review of agency action

agency adjudication

appellate jurisdiction

administrative law

statutory interpretation

PRACTICE AREAS

Administrative law

Nuclear energy law

Environmental law

Appellate procedure

QUESTIONS PRESENTED

1. Whether Texas and Fasken were 'parties aggrieved' entitled to seek judicial review of the NRC's licensing order under the Hobbs Act.
2. Whether submitting comments on the draft environmental impact statement or unsuccessfully seeking intervention conferred party status in the NRC licensing proceeding.
3. Whether Fasken could collaterally attack the prior D.C. Circuit judgment upholding denial of its intervention petition.
4. Whether Texas and Fasken could obtain nonstatutory ultra vires review despite the Hobbs Act's judicial-review scheme.

HOLDINGS

1. Only a license applicant or a person who has been admitted by the NRC as an intervenor is a party to an NRC licensing proceeding for purposes of the Hobbs Act. Because Texas was not an applicant and neither Texas nor Fasken successfully intervened, neither was entitled to judicial review of the NRC's licensing decision.
2. Fasken could not use a new Hobbs Act action challenging the NRC's licensing order to collaterally attack the final D.C. Circuit judgment affirming denial of its intervention petition.
3. Texas and Fasken could not maintain nonstatutory ultra vires claims because their claims were ordinary statutory-authority arguments and the statutory review scheme provided an adequate opportunity for judicial review.

KEY QUOTATIONS

"That text means that a 'person' becomes a 'party' only after that person requests to participate in a hearing before the Commission—that is, requests to intervene—and is actually 'admit[ted]' to such proceeding' by the Commission." (676-677)

"Where judicial review of an underlying agency action is not otherwise available, an entity cannot bootstrap its way into judicial review of that action simply by commenting on a draft EIS, even if invited to do so." (678)

"'The Kyne exception is a narrow one,' and it does not apply simply because an agency has arguably reached 'a conclusion which does not comport with the law.'" (681)

FACTUAL BACKGROUND

Interim Storage Partners applied for an NRC license to construct and operate a private, off-site facility in West Texas for interim storage of spent nuclear fuel. Texas submitted comments on the draft environmental impact statement, while Fasken Land and Minerals submitted comments and sought to intervene in the NRC licensing proceeding. The NRC denied Fasken's intervention request, the D.C. Circuit upheld that denial, and the NRC later issued the license.

PROCEDURAL HISTORY

The NRC granted Interim Storage Partners a license in September 2021. Texas and Fasken sought review in the Fifth Circuit, which held that they could challenge the license as ultra vires and vacated it, disagreeing with the D.C. Circuit's contrary decision in Bullcreek. The Fifth Circuit denied rehearing en banc, and the Supreme Court granted certiorari in both consolidated cases.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the Fifth Circuit's judgment and remand with instructions to deny or dismiss the petitions for review.

CASES CITED

- *Simmons v. ICC*, 716 F.2d 40 (D.C. Cir. 1983)
- *United States ex rel. Eisenstein v. City of New York*, 556 U.S. 928 (2009)
- *Marino v. Ortiz*, 484 U.S. 301 (1988) (per curiam)
- *Union of Concerned Scientists v. NRC*, 920 F.2d 50 (D.C. Cir. 1990)
- *Don't Waste Michigan v. NRC*, 2023 WL 395030 (D.C. Cir. Jan. 25, 2023)
- *Leedom v. Kyne*, 358 U.S. 184 (1958)
- *Boire v. Greyhound Corp.*, 376 U.S. 473 (1964)
- *Railway Clerks v. Association for Benefit of Noncontract Employees*, 380 U.S. 650 (1965)
- *Board of Governors, FRS v. MCorp Financial, Inc.*, 502 U.S. 32 (1991)
- *Bullcreek v. NRC*, 359 F.3d 536 (D.C. Cir. 2004)
- *Pacific Gas & Electric Co. v. State Energy Resources Conservation & Development Commission*, 461 U.S. 190 (1983)
- *American School of Magnetic Healing v. McAnnulty*, 187 U.S. 94 (1902)
- *Nyunt v. Chairman, Broadcasting Board of Governors*, 589 F.3d 445 (D.C. Cir. 2009)
- *Center for Biological Diversity v. EPA*, 861 F.3d 174 (D.C. Cir. 2017)
- *American Bird Conservancy v. FCC*, 545 F.3d 1190 (9th Cir. 2008)