

What the FCC Shutdown Means for Broadcasters

January 4, 2019

As a result of the partial government shutdown, the Federal Communications Commission (FCC or Commission) suspended most operations yesterday, January 3, 2019, and most Commission staffers are furloughed. Despite the shutdown, many FCC computer systems will remain operative, and certain deadlines will remain unaltered. For example, staff involved with spectrum auctions are unaffected by the lapse in funding, and most auction-related activities (including those related to the post-Incentive Auction repack) remain on schedule. Most other deadlines are delayed ***only to the extent they fall during the shutdown.***

Below, we summarize how the shutdown will affect various broadcast filings at the FCC.

Quarterly Reporting Deadlines

A number of reporting deadlines are likely to occur during the suspension of FCC operations, including the January 10, 2019 deadlines for broadcasters to place their issues/programs lists in their public inspection files and for television stations to file their KidVid reports and their quarterly post-incentive auction transition updates. The FCC's Licensing and Management System (LMS) will remain operational throughout the shutdown, but the online public inspection system will not.

To the extent a non-repack related deadline occurs while the Commission's operations are suspended, the filings will not be due until the second day that the FCC resumes operations. For example, if the Commission re-opens on January 15, 2019, Kidvid reports for the fourth quarter will not be due until the following day, January 16,

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2019. Nevertheless, because LMS will remain operational, and because it is difficult to predict when the FCC will resume operations, we recommend completing any reporting obligations in LMS on a timely basis. Uploads to a station's public inspection file, including issues/programs lists for the fourth quarter of 2018 and EEO public file reports, will need to wait until after the shutdown ends.

All repack-related deadlines are unaffected by the FCC's partial suspension of operations. Accordingly, transitioning televisions must still file their post-incentive auction transition updates on Form 387 by January 10, 2019.

Transactional Deadlines

FCC staff will not be available during the suspension of operations to process applications for the assignment or transfer of control of Commission licenses. Although it may be possible to file such applications in CDBS, the applications will not be "accepted for filing" and public notices triggering the 30-day petition to deny period will not be issued. Similarly, the informal 180-day time clock for review of certain transactions is suspended.

Facilities Modifications

The FCC will not process applications for facilities modifications unrelated to a spectrum auction during the suspension of Commission operations. Authorizations expiring during the lapse in funding will be extended to the day after regular Commission operations resume.

The FCC, however, will continue to process applications relating to the post-incentive auction transition, including applications for special temporary authority and applications for displaced low power television and TV translator stations that are subject to the settlement period ending at 11:59 p.m. ET on January 10, 2019. Broadcasters should assume that any auction and repack-related deadlines will remain unchanged.

Deadlines for Responsive Pleadings

Any pleadings that would have been due during the lapse in funding will be due the day after the FCC resumes normal operations. For the purpose of calculating reply or response deadlines, a pleading filed during the suspension of Commission operations will be deemed filed on the day after the FCC resumes normal operations.

If you have any questions about the FCC's partial shutdown or your stations' obligations during this period, please contact the Wiley Rein attorney who regularly handles your FCC matters or one of the attorneys listed above.