

FCC Enforcement Monitor— The Government Shutdown Edition

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HEADLINES

Pillsbury's communications lawyers have published the FCC Enforcement Monitor monthly since 1999 to inform our clients of notable FCC enforcement actions against FCC license holders and others. This month's issue is a special edition:

FCC Enforcement Monitor—The Government Shutdown Edition

While shutdowns of the federal government have become depressingly common, the FCC has generally been less affected than most government agencies because it is not funded by taxpayer dollars but by regulatory fees paid by broadcasters and others regulated by the FCC. However, because the FCC collects those fees in arrears—at the end of the fiscal year they fund rather than the beginning—the FCC must borrow operating funds from the federal government to operate and then repay that debt when regulatory fees are collected at the end of the fiscal year. That is the reason the FCC is never able to extend its regulatory fee collection deadline beyond September 30, the last day of the federal fiscal year.

Because of timing differences and the fact that the FCC collects more in fees in a typical year than its actual operating costs, it has often been able to continue operating during a government shutdown, sometimes throughout the entire shutdown if its funds are ample and the shutdown short. It was therefore a bit surprising when the FCC deviated from that practice during this government shutdown and not only shut down immediately, but took offline many of its online systems that had remained available in prior government shutdowns.

While many FCC licensees can operate for quite a while without needing to file an electronic application or report with the Commission, they far more frequently must rely on the public-facing informational websites of the FCC that were shut down this time. As a result, the shutdown has deprived broadcasters and others of even routine historical or technical information needed to prepare reports and continue operations, even if those reports can't be filed until the government reopens.

This has led to what has been one of the more abrupt, disruptive, and longest FCC shutdowns in history. A side effect of that, which some might consider a silver lining, is that there have been few FCC enforcement actions in the past month on which to report. So instead of the normal description of recent enforcement actions, we are going to use this edition to report on shutdown-related information that will potentially affect future regulatory obligations and enforcement actions. In particular, broadcasters and other licensees should remember that most regulatory obligations continue in effect despite the shutdown and temporary unavailability of key FCC websites. As a result, unlike the base jumpers now parachuting from El Capitan with no park rangers in sight, FCC licensees must toe the line, even in the many instances where the FCC shutdown has made rule compliance even more difficult.

Political File Obligations Continue Even Though the Online Public Inspection File Is Down

The FCC's Online Public Inspection File (OPIF) system was one of the many FCC websites taken offline during this shutdown. Since the Political File is part of the OPIF database, it is also offline. However, the rules requiring stations to keep their Political File up to date remain in effect. Broadcast stations, as well as cable, DBS, and SDARS operators, must continue to document all requests for the purchase of ad time by legally qualified candidates and issue advertisers. Since that can't be done in the FCC's Political File database, it must now either be done online (for example, on a station's website) or, for broadcasters, in paper or electronic form at an "accessible location" in the station's community of license during normal business hours.

Because of the national nature of DBS and SDARS operators, they are required "to make their back-up political files available to the public through the entity's choice of either an online method, via the entity's own website, or by answering questions and accommodating requests for copies of political file materials made by telephone," with copies to "be sent by fax, email, or mail, at the caller's request." ("Hi, can you send all of the Political File materials for the Virginia governor's race to my fax machine? It should only take a few hours.")

While right now, broadcasters are focused on the many challenges of maintaining a "local" Political File throughout the shutdown, they must also remember to upload all of their post-September materials to the FCC's OPIF database promptly upon government operations resuming. Stations therefore face double jeopardy—enforcement actions based on any failure to properly maintain a separate Political File during the shutdown, and enforcement actions for not promptly uploading those same materials to the FCC's OPIF database when the shutdown ends. While it may be tempting to assume that enforcement is off the table while the government is shut down, it won't be once the government reopens.

Responding to Pending Enforcement Actions During the Shutdown

The FCC addressed the impact of the shutdown on enforcement activity in its September 30, 2025 [Public Notice](#). It states that the FCC will not be open for normal business during the shutdown, but notes that "there are no extensions of deadlines relating to enforcement investigations and other enforcement proceedings that involve specific parties" unless the Enforcement Bureau states otherwise. Should licensees have questions about their obligations to meet specific deadlines, the Public Notice invites them to contact the Enforcement Bureau directly.

While the announcement of enforcement actions has temporarily slowed, the impact of noncompliance has not changed. Stations and other licensees should continue to comply with all rules unless the closure of the FCC makes that temporarily impossible (not just more difficult), keep good records of compliance efforts, meet all deadlines that weren't extended by the [Public Notice](#), and be standing by to upload documents or take such other actions prevented by the FCC's closure when the government reopens.

What We Know From Past Shutdowns

Given the length of this shutdown, and the risk that everyone uploading documents and filings as soon as the FCC reopens may crash the FCC's systems, the FCC may release a further public notice providing a longer window to "catch up" on those submissions. However, filers should not assume that will be the case, and if they are indeed unable to timely make their filings because of FCC system overloads, they should make sure to document the problems they encounter to defend against any lateness claims later.

Although each shutdown is unique, the FCC has generally tended to follow the precedent established in prior shutdowns regarding the essential operations that will continue during a shutdown and how normal operations will resume when the shutdown ends.

The last government shutdown continued from December 22, 2018 through January 25, 2019, a duration of 35 days. However, the FCC was not closed the entire time. It was able to continue operating for twelve days on available funds before shuttering on January 3, 2019. In a January 2, 2019 **Public Notice**, the FCC announced that, similar to this shutdown, most deadlines would be extended until the first business day after the FCC resumed normal operations. However, in a later **Public Notice** issued on January 28, 2019 (the first business day the FCC resumed operations), the FCC announced that the deadline for filings due during the shutdown would be extended an additional day, from January 29 to January 30, 2019. Then, in response to various filing system crashes, the FCC released a further **Public Notice** on January 29 extending the deadline specifically for filings that would have been due between January 8 and February 7 until February 8, 2019.

Using a similar approach, the FCC was able to avoid a shutdown entirely earlier in 2018 when the government shut down for three days in January. The FCC announced that it had enough available funds to remain open through January 26. Fortunately, the government reopened on January 23. As a result, the FCC's operations were never interrupted and filing deadlines were unaffected.

So, the FCC's abrupt and immediate closure this year marked a change from these prior shutdowns. To find a similar example requires going back to 2013, when a government shutdown lasted 16 days, from October 1 to October 17. Like this year, the FCC suspended operations for the entire duration of the 2013 shutdown. It similarly announced an extension of most filing deadlines until the first business day after the Commission resumed normal operations. However, at the conclusion of that shutdown, the FCC issued a further **Public Notice** extending the deadline for filings due between October 1 and October 6 until October 22, 2013, and extending the deadline for filings due between October 7 and October 16 for 16 days after the original filing deadline.

While there were doubtless many variables that changed between the 2013 and the 2018-2019 shutdowns, perhaps the most consequential one was the FCC's growing reliance upon online filing systems and databases. In particular, the online Public Inspection File requirement was expanded to DBS, SDARS, larger cable operators, and commercial radio stations in the Top 50 markets in 2016, and then further expanded to all radio stations in March 2018. A lot of online filings and uploads that were required in December of 2018 didn't even exist in 2013, and thousands of radio stations had only recently begun OPIF uploads when the December 2018 shutdown commenced.

The lesson is that each shutdown is different, and while it would be reasonable to draw inferences from these earlier shutdowns, it would be foolhardy to rely too heavily on history repeating itself. Over time, the FCC has varied its initial response to shutdowns, and those plans were then further affected by the duration and timing of the shutdown. As this one drags on, the likelihood of the FCC needing to further extend at least some deadlines grows. Until a public notice is released announcing such an extension, however, broadcasters would do well to continue preparing their filings and reports while standing ready to submit them when the FCC reopens.