

HOW DOES THE PARTIAL GOVERNMENT SHUTDOWN AFFECT FCC QUARTERLY (AND OTHER) JANUARY FILING DEADLINES?

As you know, broadcast stations are required to prepare a number of routine FCC filings by January 10, 2019, including the following:

- (i) All full power and Class A television stations and all full power radio stations must prepare Issues/Programs Lists covering the period October 1 – December 31, 2018, and upload them to their online public inspection files (“OPIF”) by January 10;
- (ii) All commercial full power and Class A TV stations must complete and file electronically with the FCC a Children’s Television Programming Report (FCC Form 398) covering the fourth quarter of 2018;
- (iii) All commercial full power and Class A TV stations must upload records to the OPIF to demonstrate compliance in 4Q 2018 with the commercial limits in certain children’s programming;
- (iv) Class A TV stations must upload to the OPIF documentation sufficient to demonstrate that the station continued in 4Q 2018 to meet the eligibility requirements to operate as a Class A TV station;
- (v) Certain noncommercial stations that conducted on-air fundraising for a third party non-profit during 4Q 2018 must upload to the OPIF a report of such activity; and
- (vi) Full power and Class A transitioning stations that are changing channels in the post-auction transition are required to file a Form 387 Transition Progress Report covering the fourth quarter of 2018.

As you may be aware, a portion of the federal government has been shut down since December 22, 2018, and the FCC issued a release on December 22 announcing that it would remain fully operational through at least January 2, 2019. Thus, as of December 31, 2018, the FCC’s OPIF system and other filing platforms and databases remain fully functional and available for broadcasters to use to comply with the six filing requirements outlined above.

If the government shutdown persists, we do not yet know what the FCC will do after January 2, 2019, i.e., whether the FCC will remain open and operational or whether the FCC will cease its non-essential operations and shutter its website, filing platforms and various online databases. During the 16-day government shutdown in October 2013, the FCC’s website, filing platforms, and online databases were all unavailable, which subsequently resulted in the FCC’s extension of various filing deadlines after the shutdown ended. Whether the current shutdown will result in a similar outcome remains unknown at this time, and we expect the FCC to make a public statement on or before January 2 to let us know; we will know more at that time and we will share important information with you.

Because we don’t know when the government shutdown will end or what the implications will be for FCC filing deadlines, our guidance is for stations to continue to proceed apace with their regular quarterly filing protocols and processes in order to be ready for the January 10, 2019, filing deadline.

We will provide additional information regarding these issues as we learn more from the FCC in the coming days.