FILED: September 18, 2026

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 26-2230

In re: SHERROD BROWN; JON OSSOFF; ROY A. COOPER, III; KRISTEN MCDONALD RIVET,

Petitioners.

ORDER

Upon consideration of the petition for writ of mandamus, the court defers action on the petition until at least October 1, 2026. If action during the deferral period renders the mandamus petition moot, the court will issue an opinion dismissing the petition on that basis.

The court asks the parties to keep in mind that the Federal Communications Commission "is required to resolve every application it receives," *Nat'l Republican Cong. Comm. v. Brown*, 609 U.S. ---, No. 26A274, 2026 WL 2618462, at *1 (U.S. Sept. 4, 2026) (per curiam) (citing 47 U.S.C. § 155(c)(4)), and that by statute, the Commission is required to conduct its business "prompt[ly] . . . with the objective of rendering a final decision (1) within three months from the date of filing in all original application . . . cases in which

it will not be necessary to hold a hearing, and (2) within six months from the final date of the hearing in all hearing cases," 47 U.S.C. § 155(d).

Entered at the direction of the panel. Judge King and Judge Wynn voted to defer action on the petition for writ of mandamus. Judge Wilkinson voted to deny the petition and filed a dissenting opinion.

FOR THE COURT

/s/ Nwamaka Anowi
Clerk

WILKINSON, Circuit Judge, dissenting:

I would deny the petition for a writ of mandamus forthwith. A postponement does nothing but keep matters churning, in direct contradiction of the Supreme Court's instruction that matters should be left in a stable state "in the critical weeks leading up to the midterms." *National Republican Congressional Committee v. Brown*, No. 26A274, 609 U.S. __ (2026) (slip op. at 3).

It takes no special powers of discernment to understand the state of affairs the majority has created. After this court's earlier decision in this case, broadcasters began "rescinding favorable rates" for party-coordinated advertising. *Id*. Presumably they have returned to their prior contractual agreements after the Supreme Court's stay. And presumably they may flip again depending on the downstream effects of a writ, if one is eventually granted. By this point, neither parties nor candidates nor broadcasters have any idea how to plan, contractually or otherwise, for the rest of the election season. They have no idea what their rights and obligations even are. This is chaotic with a capital C, chaos that "cannot be remedied after the fact through refunds or reimbursements." *Id.* at 4.

It is not only the plain import of the Supreme Court's stay order that the majority ignores. It creates further disruption by thrusting itself into the heart of the FCC's deliberative process. The majority now emphasizes Congress's aspirational timelines, 47 U.S.C. § 155(d), after consistently casting shade on the agency's authority to act at all. *See Brown v. FCC*, No. 26-1785, 2026 WL 2493115, at *4 (4th Cir. Aug. 25, 2026) (concluding it was unnecessary for the FCC to act because it had already "constructively denied" the

application for review). The agency desisted, understandably, when its very jurisdiction was called into question by this very court.

With the opening of the comment period, which the majority itself earlier demanded, *see id.* at *6, agency action is well underway. Petitioners' statutory argument will be resolved in the normal course of proceedings as the Supreme Court contemplated. The majority should deny the mandamus petition here and now.