

Per Curiam

SUPREME COURT OF THE UNITED STATES

No. 26A476

FEDERAL COMMUNICATIONS COMMISSION *v.*
SHERROD BROWN, ET AL.

ON APPLICATION FOR STAY

No. 26A477

NATIONAL REPUBLICAN CONGRESSIONAL
COMMITTEE, ET AL. *v.* SHERROD BROWN,
ET AL.

ON APPLICATION FOR STAY

[October 14, 2026]

PER CURIAM.

On March 30, 2026, the Media Bureau of the Federal Communications Commission (FCC) issued a “public notice” about the FCC’s lowest unit charge (LUC) requirements. Those requirements, which are outlined in 47 U. S. C. §315(b)(1)(A), concern favorable rates that broadcasters must charge for campaign advertisements in the weeks leading up to elections. The notice stated that political candidates, joint fundraising committees with noncandidate members, and political parties engaged in coordinated political activity are entitled to the LUC.

Four candidates for Congress filed an application for review with the FCC, arguing that only political candidates are entitled to the LUC and asking the full Commission to set aside the public notice as unlawful. Two months later, while their application was still pending before the Commission, the candidates filed a petition for review against

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the FCC and the United States in the Court of Appeals for the Fourth Circuit seeking the same relief. A divided panel of the Fourth Circuit determined that it had jurisdiction to consider the candidates' challenge, granted their petition, and set aside the public notice. In doing so, the majority reasoned that the plain text and legislative history of §315(b)(1)(A) limits the availability of the LUC to political candidates.

On September 4, 2026, we granted an application to stay the Fourth Circuit's decision. In our *per curiam* opinion, we explained that the Communications Act "makes clear" that the Commission must resolve an application for review by order "before an aggrieved party may petition for further review in federal court." *National Republican Congressional Committee v. Brown*, 609 U. S. ___, ___–___ (2026) (slip op., at 2–3). "Because the candidates' application for review was pending when they filed their petition for review," we continued, "the Fourth Circuit likely lacked statutory jurisdiction to address their challenge." *Id.*, at ___ (slip op., at 3). Indeed, the Fourth Circuit's holding to the contrary "split[] with every other Circuit to have considered the issue." *Ibid.* (citing *Council Tree Communications, Inc. v. FCC*, 503 F. 3d 284, 287 (CA3 2007); *Alabama Power Co. v. FCC*, 311 F. 3d 1357, 1366 (CA11 2002); *International Telecard Assn. v. FCC*, 166 F. 3d 387, 388 (CADC 1999) (*per curiam*)).

Just one month later, on October 7, 2026, the same Fourth Circuit panel ordered the Commission to resolve the candidates' application by October 9, 2026. The Commission thus had 48 hours from the entry of the Fourth Circuit's mandamus order to issue its final decision. That, the Fourth Circuit believed, was "the only means to finally move forward with . . . judicial review." App. to Emergency Application for Stay in No. 26A476 (CA4), ECF Doc. 30, p. 18a, n. 2. The mandamus order came just one week after the Commission's comment period on the candidates'

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application had closed, and in the midst of another comment period for a parallel application the Commission was considering in tandem.

The FCC moved before this Court to stay the Fourth Circuit’s mandamus order. On October 8, 2026, the order was administratively stayed so that the Court could resolve the FCC’s application before the 48-hour deadline expired.

To obtain a stay, the FCC must demonstrate “(1) a reasonable probability that four Justices will consider the issue sufficiently meritorious to grant certiorari; (2) a fair prospect that a majority of the Court will vote to reverse the judgment below; and (3) a likelihood that irreparable harm will result from the denial of a stay.” *Hollingsworth v. Perry*, 558 U. S. 183, 190 (2010) (*per curiam*). In “close cases” we “balance the equities and weigh the relative harms to the applicant and to the respondent.” *Ibid.* Each of these factors favors the FCC, so we grant the stay.

A writ of mandamus is a “‘drastic and extraordinary’ remedy ‘reserved for really extraordinary causes.’” *Cheney v. United States Dist. Court for D. C.*, 542 U. S. 367, 380 (2004) (quoting *Ex parte Fahey*, 332 U. S. 258, 259–260 (1947)). To obtain a writ of mandamus, a litigant must demonstrate that he has “no other adequate means to attain the relief he desires” and that his right to the writ is “clear and indisputable.” 542 U. S., at 380–381 (internal quotation marks omitted). Together, these prerequisites ensure that mandamus, one of “the most potent weapons in the judicial arsenal,” *Will v. United States*, 389 U. S. 90, 107 (1967), is used only to correct a clear “‘usurpation of power’” by a lower court, *id.*, at 95 (quoting *De Beers Consol. Mines, Ltd. v. United States*, 325 U. S. 212, 217 (1945)), or to compel an agency to “perform a ministerial or non-discretionary act” over which the agency has “no discretion whatever.” *Norton v. Southern Utah Wilderness Alliance*, 542 U. S. 55, 63–64 (2004) (internal quotation marks omitted).

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The Fourth Circuit’s decision to issue an “extraordinary” writ was inappropriate under the circumstances. The Communications Act requires the Commission to act on every application it receives, but it does not obligate the Commission to act within a particular timeframe. 47 U. S. C. §155(c)(4). The Commission may exercise its discretion to set its own procedures and schedule for resolving such applications. See *Vermont Yankee Nuclear Power Corp. v. National Resources Defense Council, Inc.*, 435 U. S. 519, 524 (1978). Undeterred, the Fourth Circuit issued a mandamus order requiring the Commission to issue a final decision on the candidates’ application just five months after it was filed and within just 48 hours—all while the Commission’s deliberation process was still ongoing. Our system of separation of powers does not allow the Judiciary to meddle in “the workings of a coordinate branch of the Government” in this manner. *INS v. Legalization Assistance Project of Los Angeles County Federation of Labor*, 510 U. S. 1301, 1306 (1993).

Finally, the FCC will suffer irreparable harm absent a stay. As discussed above, the Fourth Circuit’s mandamus order requires the FCC to issue a final order within just 48 hours of its entry. To comply with the mandamus order, the FCC must triage its ongoing deliberation process and prepare a final order on an extremely expedited timeline. That the mandamus order requires the FCC to abandon its deliberation process is itself an injury that cannot be remedied after the fact. The FCC thus satisfies the stay factors.

For the foregoing reasons, the Fourth Circuit’s order directing the Commission to abort its deliberative process and issue a final decision on the candidates’ application for review in two days is stayed.

* * *

The application for stay presented to THE CHIEF JUSTICE and by him referred to the Court is granted. The October

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7, 2026 judgment of the United States Court of Appeals for the Fourth Circuit, case No. 26–2230, is stayed pending the filing and disposition of a petition for a writ of certiorari, if such a writ is timely sought. Should certiorari be denied, this stay shall terminate automatically. In the event that certiorari is granted, the stay shall terminate upon the sending down of the judgment of this Court. The related application for stay in *NRCC v. Brown*, case No. 26A477, presented to THE CHIEF JUSTICE and by him referred to the Court is denied as moot.

It is so ordered.

JUSTICE SOTOMAYOR and JUSTICE JACKSON would deny the applications.