

May 11, 2020

**FILED VIA ECFS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, N.W.  
Washington, DC 20554

**RE: Reply to Rural Digital Opportunity Fund (RDOF) Phase I Auction Challenge Filed by Frontier Communications; Ex Parte Communication; WC Docket No. 19-126**

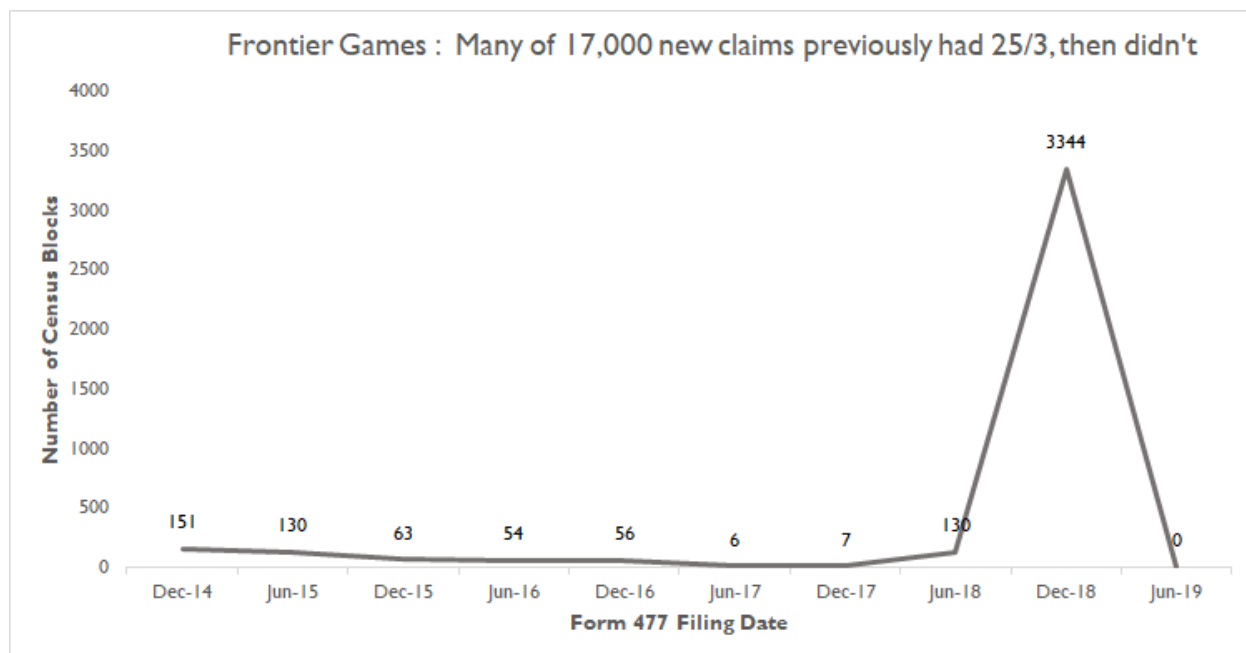
Dear Ms. Dortch:

The Institute for Local Self-Reliance (ILSR) files this information related to Frontier Communication's RDOF auction challenges out of a concern for the Commission erroneously declaring some areas ineligible for support. We are concerned that Frontier may have overstated its capacity to actually deliver the claimed services in many areas and that the Commission is in a difficult position of evaluating how to handle the Frontier challenge.

**Frontier's 477 Filings Show Inconsistent Behavior**

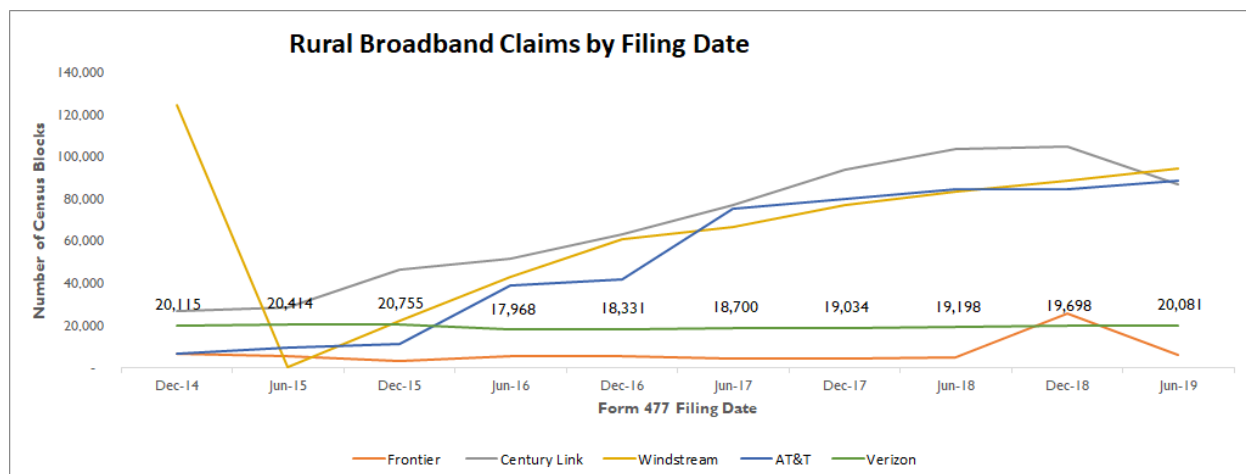
ILSR has analyzed Frontier's 477 data for years as part of its work to understand deployment patterns in rural areas and encourage more broadband investment. Four years ago, we noticed that Frontier had lowered its claimed service capacity in several census blocks, declaring areas that previously supposedly had 25/3 Mbps as now being just below that threshold. We did not have the capacity to follow up further but remembered those oddities in seeing these nearly 17,000 new census blocks.

Of the nearly 17,000 new claims for 25/3, a substantial number of them had previously been declared as having 25/3 available. From the December 2014 filing to December 2017, Frontier went from declaring 151 of those locations having 25/3 to 7 (which was up from 6 blocks just 6 months previous). They went back up to 130 in June of 2018 and then spiked with 3344 in December 2018 before claiming zero of them in June 2019. See the next graph focused solely on the nearly 17,000 challenge claims.



This is peculiar behavior. There is no obvious geographic explanation. From December of 2014, the 151 blocks that slowly lost service over time were in 13 different states. Frontier's filings of broadband service within the 16,987 blocks is not consistent. In Form 477 filings from Dec 2014 - June 2019, only 3590 or 21% of these blocks were filed at least once as having broadband coverage from Frontier. 13,397 or 79% of census blocks filed on April 10, 2020 would have had to have broadband installed since June 2019. The blocks that were filed in the nine filing periods going back to 2014 show inconsistencies. 18 of the 3590 blocks were filed in 6 of the 9 filing periods. 3433 blocks were filed only once. The 18 blocks that were filed 6 of the 9 times are all located in Connecticut and were consistently not filed as broadband in June 2017, Dec 2017, Dec 2018 and June 2019. These blocks were filed as serving 24/2 speed every one of those years except June 2019 where they filed as 25/2.

We looked at how other large telephone companies' 477 25/3 submissions changed over time, finding much more consistency over time, further suggesting that Frontier's filing pattern for all rural census blocks has been significantly abnormal. See the following graph comparing the number of rural census blocks with 25/3 or greater service among national telephone companies.



Windstream's claims of 25/3 Mbps take a sudden dive after the broadband definition was modernized in 2015 but other than that, the other providers have similar increases in number of broadband claims in rural blocks. Verizon's rural 25/3 claims decline after the sale of many properties to Frontier was completed prior to June 2016, which is the only other time Frontier's 25/3 claims measurably increase.

Frontier is the outlier. We considered whether Frontier may have been trying to game the RDOF to allow it to rig some areas where it may be able to win bids to provide a service already partially available, but then losing confidence and deciding to abort the scheme in its recent 17,000 challenges. But we believe the more likely explanation is incompetence.

When we saw the effort from Frontier to claim 17,000 recently improved blocks able to deliver 25/3, we published a story explaining that we were extremely dubious based on our experiences working with communities in Frontier territories.<sup>1</sup> Nothing in our experience suggested that it had improved service in those markets. We rapidly received reactions from people involved with trade groups, local ISPs, the heads of state broadband offices, and individual residents that all expressed extreme, and sometimes quite hostile, skepticism of Frontier's claims.

We believe the Commission should either initiate a rapid investigation to vet these claims and the actual extent of service or, more appropriately in consideration of the evidence below, refuse to honor challenges from Frontier in determining the eligibility of census blocks for the RDOF auction.

<sup>1</sup> <https://muninetworks.org/content/frontier-removes-17000-census-blocks-20-billion-rural-broadband-auction>

## Frontier Has Repeatedly Acted Against the Public Internet and Violated Laws

Frontier has repeatedly been investigated and found to have violated state laws and agreements regarding its telecommunications and Internet services. The Commission has long set requirements for firms to meet for subsidy or other programs that would ensure the firm has the capacity to be a responsible steward of limited government subsidies. We have felt many of those terms have been too stringent and discriminated against strong local firms that would be good stewards of public dollars while failing to identify firms that might, for instance, declare bankruptcy and apparently violate numerous laws in numerous states while receiving Connect America Funds.

Frontier's record in recent years offers numerous warning flags that the Commission should consider before accepting its nearly 17,000 challenges.<sup>2</sup> The company has been the subject of numerous official complaints and investigations in the states in which it operates and has settled investigations in several states after extremely lengthy records were compiled showing its inability to regularly provide basic services. Consider this non-exhaustive list in just recent years:

### California

- CPUC investigating Frontier outages after transfer from Verizon in 2016 (2020, [source](#))

### Connecticut

- AG and Dept. of Consumer Protection investigating Frontier for bad quality and billing (2019, [source](#))

### Florida

- AG sent letter to Frontier after hearing complaints after transfer from Verizon (2016, [source](#)) and collected complaints (2016, [source](#))

### Ohio

- PUC filed complaint that Frontier didn't maintain service quality (2019, [source](#))

### Minnesota

- PUC organized public hearings (2018, [source](#)) and settled with Commerce Department (2019, [source](#))
- Commerce launched a second investigation into billing and customer service (2019, [source](#))

### New York

- PSC requested review after complaints of poor quality and outages (2019, [source](#))

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<sup>2</sup> <https://muninetworks.org/content/frontier-has-failed-rural-america-fact-sheet>

#### Nevada

- Cited by AG's Bureau of Consumer protection for misrepresenting speeds and service quality (2019, [source](#))

#### North Carolina

- AG issued civil investigative demand (2019, [source](#))

#### Pennsylvania

- AG Bureau of Consumer Protection settled with Frontier after investigation into poor quality and speeds (2020, [source](#))

#### Utah

- PSC investigated telephone outages (2019, [source](#))

#### West Virginia

- Settlement with AG for misrepresenting speeds (2015, [source](#))
- PSC ordered independent audit after complaints of poor quality and outages (2018, [source](#))

The Commission faces a crisis of credibility on matters of broadband and telecommunications data collection, with two significant scandals in just the past 6 months.

- AT&T incorrectly claimed to offer broadband in 3,600 census blocks for years.<sup>3</sup>
- Verizon and T-Mobile greatly exaggerated 4G coverage.<sup>4</sup>

Allowing Frontier to so remove hundreds of thousands of Americans from one of the most significant rural broadband programs in history would send a strong message that there is no claim too far that the Commission will be skeptical of. It is open season for exaggeration and perhaps outright lies on the eve of the Commission's new data collection that is intended to put the errors of the past behind it.

Frontier is all but inviting the Commission to make an example of it and serve notice that the Commission intends to ensure Americans in rural regions have real opportunities to connect rather than continuing to play games with bankrupt firms.

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<sup>3</sup> <https://arstechnica.com/tech-policy/2020/04/att-gave-fcc-false-broadband-coverage-data-in-parts-of-20-states/>

<sup>4</sup> <https://arstechnica.com/tech-policy/2019/12/fcc-tries-to-bury-finding-that-verizon-and-t-mobile-exaggerated-4g-coverage/>

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Mitchell".

Christopher Mitchell  
Director, Community Broadband Networks  
Institute for Local Self-Reliance

cc: [ConnectAmerica@fcc.gov](mailto:ConnectAmerica@fcc.gov)