



MONO COUNTY GRAND JURY

2020-2021

FIBER INTERNET CONNECTION AS ESSENTIAL INFRASTRUCTURE IN MONO COUNTY

FINAL REPORT

Submitted June 28, 2021

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONO


IN RE:

2020-2021 Grand Jury

GENERAL ORDER

I certify that the 2020-2021 Fiber Internet Connection as Essential Infrastructure in Mono County Final Report, pursuant to California Penal Code § 933 (a), complies with Title Four of the California Penal Code and direct the County Clerk to accept and file the final report as a public document.

Dated this 1st day of July 2021.



MARK MAGIT
Presiding Judge of the Superior Court

Mono County Grand Jury Report 2021

FIBER INTERNET CONNECTION AS ESSENTIAL INFRASTRUCTURE IN MONO COUNTY

June 28, 2021

SUMMARY

With the installation of Digital 395, a 450-mile backbone extending from Reno, Nevada to Barstow, California, broadband access in Mono County and the Town of Mammoth Lakes is better than many rural areas, but improvement is needed.

Some areas of Mono County are underserved with little or no broadband access. Other areas that have access suffer from frequent outages and unacceptable customer service.

The increase in demand caused by the COVID-19 pandemic and the subsequent shelter-in-place orders have highlighted shortcomings in broadband access in our communities. Overall demand has skyrocketed: online school, remote work, multiple devices per person connected to the Internet for communication as well as entertainment have driven this demand. At the same time there has been increased second homeowner occupation and tourist visitation. Due to the delivery methods of entertainment and information, demand will continue to increase.

Members of the Mono County Grand Jury are aware of widespread dissatisfaction with the current state of broadband access. While the Grand Jury cannot investigate private contracts between individuals and independent service providers, the Grand Jury can investigate local broadband availability, shortcomings, and potential solutions that are within the purview of our local government entities.

Two separate entities were identified that can influence the quality of local broadband access. The Grand Jury believes Mono County and the Town of Mammoth Lakes management are in a position to improve broadband availability and reliability for residents, visitors and businesses. In the county, the Mono County Board of Supervisors has the ability to make broadband access a priority in underserved portions of the county. In the Town of Mammoth Lakes, the Town Council can establish policies that encourage and support high quality broadband access and customer service.

BACKGROUND

Broadband access in rural areas in the United States is limited at best, and Mono County is no exception. The completion of the Digital 395 project in 2014 (made possible by The American Recovery and Reinvestment Act of 2009 and the FCC Rural Digital Opportunity Fund) was a

tremendous improvement to broadband access in Mono County. Supervisor John Peters in the June 10, 2021 *Mammoth Times* was quoted as saying, “The pandemic showed us how critical modern broadband access (100 mbps) is for education, health, economic opportunities and equity. Broadband is now just as essential to modern life as electricity and running water.”

At one time, broadband providers that were present in the area had local offices and good customer service. Over time, local offices were closed, and service became unreliable, demonstrated by the number of formal and informal complaints made by local residents.

The Mono County Grand Jury is aware of widespread complaints in the community, on social media, in letters to the editor in local newspapers and during public meetings.

Internet usage has grown in recent years with streaming of entertainment, work from home and use of social media, to mention just a few activities. In the last year with Covid-19 lockdowns and school closures, Internet usage skyrocketed and became an essential tool of life. It is now a necessity to have fast, reliable Internet service in the county and the town for the economic well being of the community. Not only does the community benefit from robust, reliable, and lightning fast Internet, it is a requirement for a healthy tourist economy. Further, the same robust, reliable, and lightning fast Internet is necessary to support people who choose to live in Mono County or Mammoth and work from home.

METHODOLOGY

The Mono County Grand Jury interviewed multiple key people associated with the Town of Mammoth Lakes and Mono County, some of them multiple times. In addition, interviews were conducted with individuals in Ashland, Oregon, which bills itself as “one of only 178 communities across the nation that provides residents with a locally-owned, lightning-fast fiber optic infrastructure.” The Grand Jury also consulted with legal counsel to determine any limitations imposed by agreements with the state of California that impact Mono County. Notes and videos from Mammoth Lakes Town Council meetings, Planning Commission meetings and Mono County Board of Supervisors meetings were reviewed as were anecdotal stories and complaints in local and social media.

DISCUSSION

Broadband for All?

When the Digital 395 project concluded in 2014, Mono County government representatives used their influence to encourage Suddenlink to invest a significant amount of money to upgrade the existing digital infrastructure in order to realize the high speeds provided by Digital 395. In 2015

Mono County's broadband services were among the best available almost anywhere - although in limited areas of the county.

Altice purchased Suddenlink in December of 2015. Following that acquisition, maintenance was neglected, local presence was reduced, customer satisfaction declined. The Mammoth Lakes office was closed, then the Bishop office was also closed, although recently reopened in January 2021. During this time, customer complaints about sporadic and unreliable service increased, and at the same time Suddenlink (Altice) customer service went from local offices to centralized call centers that provided little assistance. Ongoing and prolific complaints by friends and neighbors, letters in the local newspapers, and personal experiences all influenced the Grand Jury to investigate the state of broadband services in our county.

DIVCA - Digital Infrastructure and Video Competition Act of 2006

Under the Digital Infrastructure and Video Competition Act of 2006 (DIVCA) television and Internet service providers hold franchise agreements with the state of California rather than with the local counties or municipalities. This means that neither Mono County nor the Town of Mammoth Lakes has the authority to terminate or replace the current franchise holder - Suddenlink (Altice). Only the state of California has that power. The county and town can by themselves, or in cooperation with other jurisdictions, try to influence the California Public Utilities Commission (PUC) to pressure Suddenlink (Altice) to better their performance and customer service.

When cable TV service was established in Mono County and the Town of Mammoth Lakes by a predecessor of Suddenlink (Altice), cable television service was the issue. DIVCA was enacted at a time when that was still the case. More recently Internet usage has exploded and cable service providers like Suddenlink (Altice) have repurposed their cable systems to accommodate the change. Cable TV service was designed to provide fast download speeds for web browsing and video streaming. In the last two years with intense use of video conferencing applications like Zoom, speed in both directions - download and upload - is necessary, putting strain on existing systems that were not designed for that purpose.

Under DIVCA there is no legal barrier to another provider coming into the area to provide Internet service. There is, however, a high initial investment involved to create the infrastructure in the form of fiber and/or coaxial cable to provide service to the *last mile*, connecting to individual homes and businesses. This financial hurdle is sufficient to discourage competition. Basically June Lake and Mammoth Lakes residents are stuck with what they have.

Customer Service or Lack Thereof

The current providers are held only to the customer service standards set by the Digital Infrastructure and Video Competition Act of 2006 (DIVCA) with regards to cable TV service. In

fact, the Grand Jury's understanding of DIVCA customer service standards is that they only apply to television service and not Internet service even when supplied by the same provider, as for example in the case of Suddenlink (Altice). At this time, there are no customer service standards of any kind with regard to Internet service under DIVCA.

During a public Mammoth Lakes Town Council meeting (April 21, 2021), the town attorney said that several jurisdictions are working together to influence the California Public Utilities Commission (PUC) and state legislature to address this problem. While the scope of DIVCA customer service standards and penalties could be broadened to include internet service through precedent in the court, this has not yet happened.

A representative from Suddenlink (Altice) has presented to public meetings: County Board of Supervisors, Town Council of Mammoth Lakes, Town Planning Commission and Mammoth Lakes Chamber of Commerce in recent months to address ongoing dissatisfaction with Suddenlink (Altice) service. In such a discussion at the November 20, 2020 Mono County Board of Supervisors meeting, both the Suddenlink (Altice) representative and individual supervisors discussed citizens calling their county supervisor when customer service response became intolerable. The supervisor would then call the Mono County IT Director who would proceed to escalate the problem to a Suddenlink (Altice) contact.

In response to this issue, in mid-April the Mono County IT department set up a Suddenlink Escalation Portal on the Mono County website. This portal was announced in the Town of Mammoth Lakes e-News on May 7, 2021. The informal instructions presented in several meetings (referenced above) as potential solutions to problems with service include calling Suddenlink (Altice) to initiate a trouble ticket. If the issue is not resolved to the customer's satisfaction, the customer can enter the information through the Suddenlink Escalation Portal. While there has been an attempt to publicize the portal which is linked on the Mono County web page, it is still quite difficult to find. The Grand Jury has been told that it is Suddenlink (Altice) that determines whether resolution is successful. If the customer is not satisfied and disagrees, their only recourse is to open another trouble ticket and go through the entire process again.

The Last Mile

Part of the challenge with broadband access locally, as well as in many other rural communities, is the hurdle of *last mile* connection. *Last mile* is a term widely used in telecommunications, cable television and Internet industries to refer to the telecommunications networks that deliver telecommunication services to retail end-users (customers). More specifically, the *last mile* describes the portion of the telecommunications network chain that physically reaches the end-user's premises. Digital 395 is considered a *middle mile* network; the *last mile* is the connection from Digital 395 to the end user. The *last mile* can be any combination of copper wire (as used by Frontier Communications in Mono County), coaxial cable (used by Suddenlink (Altice)), or fiber optic cable (used by Race Communications among others). Fiber optic cable provides the fastest, highest quality broadband service. Fiber is state-of-the-art. The issue addressed in this Grand Jury report is the *last mile* connection.

Many for-profit Internet service providers are not willing to invest the tremendous amount of money required to install, upgrade or connect the needed *last mile* infrastructure to the fiber provided by Digital 395. The return on investment (ROI) is not enough for them to invest based on the number of households serviced by an infrastructure improvement.

Some communities in Mono County are physically close to the Digital 395 fiber so that the costs are low enough for it to be feasible for an internet service provider (ISP) to recoup their initial investment to make the *last mile* connection. For example, Crowley Lake's connection and physical proximity to Digital 395 has allowed two different broadband Internet providers to offer services in that area: Suddenlink (Altice) and Race Communications.

Other communities don't have adequate broadband service, such as Virginia Lakes (only satellite access for internet and phone) and Hammil Valley (only wireless Internet and spotty cell phone service available). The distance from these communities to Digital 395 would make the *last mile* investment very expensive. There are also islands within served areas that never had the infrastructure installed and cannot receive high speed broadband, such as areas of the Industrial Park in Mammoth Lakes, which has two parcels without a Suddenlink (Altice) broadband connection.

The new Starlink satellite system is a possibility for addressing some of the underserved communities in the unincorporated areas of the county. Starlink is at an early stage of development and it remains to be seen whether the capacity and speed of access are sufficient. There are also questions about the affordability of a Starlink subscription.

Because Digital 395 service does come into the Town of Mammoth Lakes and is accessible to some areas physically close to the Digital 395 fiber network, some homeowners' associations are exploring setting up their own private *last mile* networks. This points to the possibility of inequitable access. Finally, the patchwork of fiber infrastructure in Mammoth Lakes that already exists is convoluted and messy.

The Town of Mammoth Lakes has one major Internet Service Provider (ISP), which is Suddenlink (Altice). Frontier Communications offers Internet service in Mammoth Lakes, but it is over copper wire (DSL) and is therefore significantly slower than the coaxial cable connection offered by Suddenlink (Altice). Because Mammoth currently has these two Internet providers, it is likely not considered underserved when applying for grants to improve digital infrastructure.

During this investigation, it was discovered that conduit infrastructure is being installed into the Parcel and to the Community Recreation Center which will help facilitate fiber connections to the new structures. Unfortunately, that will not solve conduit infrastructure issues in other areas in town.

Public Utility

One direction this investigation explored was how communities and government entities could manage broadband access much like a public utility. One example is the city of Ashland, Oregon, that, when upgrading their infrastructure for city-managed utilities, installed conduit and fiber

optic cables to 95% of the units within the city limits. Ashland Fiber is an internet service provider and a city department. It has its own service technicians and customer support team, and has been successful in providing high-speed broadband internet all while paying off the debt incurred during the initial installation as well as contributing to the City's general fund. Their infrastructure is also available to other providers at a fee that allows consumers to choose their provider while having access to high speed fiber broadband. This serves as another source of revenue for the City of Ashland. The service provided by Ashland Fiber has been relatively reliable over the years and has not increased in price for five years according to an Ashland Fiber representative.

President Biden's American Jobs Plan

President Biden's American Jobs Plan, recently released to the public, addresses broadband inequities, proposes \$100B to bring high speed broadband to 100% of communities in the country, and specifically mentions promoting transparency and competition among broadband providers ([FACT SHEET: The American Jobs Plan](https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/31/fact-sheet-the-american-jobs-plan/)<https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/31/fact-sheet-the-american-jobs-plan/>). This could be extremely beneficial to Mono County residents and businesses if it provides funding for *last mile* infrastructure improvements for broadband to unserved and underserved communities in Mono County.

FINDINGS - MONO COUNTY

F1-C Broadband access in parts of unincorporated Mono County is inadequate leading to frustration among the citizenry. This unequal access to services negatively affects students requiring online instruction as well as the economic vitality of the region.

F2-C Starlink is a possible provider of broadband services in unincorporated and remote areas of Mono County. However, it is not clear at this point whether the service would be sufficient and affordable to residents in areas suffering from poor access.

RECOMMENDATIONS - MONO COUNTY

The Mono County Civil Grand Jury recommends:

R1-C The Mono County Board of Supervisors instruct staff to create a list of areas in Mono County that have inadequate broadband access and assign a priority sequence to the list by September 30, 2021.

R2-C Using the priority list created in recommendation R1-C above, the Mono County Board of Supervisors instruct staff to create and commit to a timeline for addressing the inadequate broadband access in the county. This timeline should identify funding sources to complete the

project. Staff should produce a comprehensive management plan for Internet access throughout the county by December 31, 2021 and update the Board of Supervisors quarterly.

FINDINGS - MONO COUNTY AND TOWN OF MAMMOTH LAKES

F1-C&T The Grand Jury is aware that state of California legislation is not within our purview. However, considering how great the impact of the Digital Infrastructure and Video Competition Act of 2006 (DIVCA) is and how immense the frustration at all levels from citizen customers through county and town staff up to and including the Mono County Board of Supervisors and Town of Mammoth Lakes Town Council, the Grand Jury feels it is necessary to address this issue as a finding. The fact that all control of franchise agreements and enforcement of penalties for poor customer service have been removed from local control results in tremendous frustration at every level. The Grand Jury sees how it also results in unintended consequences as the local jurisdictions seek ways to work around the restrictions and support their citizens' needs. At the same time local citizens are attempting to deal with the situation through homeowners' associations and other informal groups to access more robust broadband service.

F2-C&T Mono County and the Town of Mammoth Lakes have little leverage over customer service standards that are established at the state level through DIVCA. Suddenlink (Altice) provides inconsistent and/or poor customer service. Further, Suddenlink (Altice) is using the County and Town IT staff to help manage its customer service without paying for the service provided, resulting in a strain on staff and frustration for customers and staff.

F3-C&T Recently a Suddenlink (Altice) escalation portal on the Mono County website has been created to address the ongoing customer service issues in the county and town and is intended to alleviate frustration among the citizenry. Little instruction is provided on how to use the escalation portal.

RECOMMENDATIONS - MONO COUNTY AND TOWN OF MAMMOTH LAKES

The Mono County Civil Grand Jury recommends:

R1-C&T The Mammoth Lakes Town Council (MLTC) and the Mono County Board of Supervisors (BOS) encourage their legal counsels to continue to coordinate with each other and other jurisdictions to address the shortcomings of the DIVCA legislation. A quarterly report detailing progress should be presented to the BOS and MLTC no later than October 31, 2021. Ongoing.

R2-C&T The Mammoth Lakes Town Council (MLTC) and the Mono County Board of Supervisors (BOS) instruct the of Mammoth Lakes town manager and Mono County CAO respectively to coordinate with their respective staff and legal counsel to develop a plan to

pursue enforcement of the customer service standards outlined by DIVCA, which may include leveraging penalties for not meeting customer service standards. The joint plan to be submitted to the MLTC and BOS by October 31, 2021 with quarterly followup.

R3-C&T The Mammoth Lakes Town Council (MLTC) and the Mono County Board of Supervisors (BOS) instruct the Mammoth Lakes town manager and Mono County CAO respectively to coordinate and instruct the IT department to follow up on complaints submitted on the Suddenlink (Altice) escalation portal to determine if they are successfully resolved. This may necessitate follow-up communications to complainants and could include expanding the IT department. Follow-up on complaints to be addressed monthly and reported back to MLTC and BOS beginning no later than October 31, 2021.

R4-C&T The Mammoth Lakes Town Council (MLTC) and the Mono County Board of Supervisors (BOS) instruct the Mammoth Lakes town manager and Mono County CAO respectively to coordinate and instruct the IT department to create more detailed and easy-to-follow instructions on how to use the newly established Suddenlink escalation portal no later than September 30, 2021.

COMMENDATIONS - MONO COUNTY AND TOWN OF MAMMOTH LAKES

The Grand Jury commends the Mono County IT department for supporting the citizens of the county and town in dealing with ongoing Suddenlink customer service problems.

The Grand Jury commends the Mono County and Town of Mammoth Lakes legal counsels for working together and with other jurisdictions to address the problems presented by the DIVCA state legislation.

FINDINGS - TOWN OF MAMMOTH LAKES

F1a-T The franchise contract for cable television and Internet is controlled by the state but there is no legal barrier to competitors entering the local market. The initial investment in *last mile* infrastructure is the barrier to competition. The high cost of entering the market creates extreme frustration for the citizens of the town because they have no good alternatives to the current Internet service providers and no prospects for the situation to improve.

F1b-T The technology of using coaxial cable, which is efficient for television transmission, is not the best technology for delivering high speed Internet to customers who are suffering from poor and inconsistent Internet access. Fiber optic cable is a better alternative.

F1c-T Town of Mammoth Lakes does not qualify as an underserved community because of the two providers of broadband access in the town. This may hinder grant funding for upgrading the system or installing a new one under control of the town.

F2-T Inaction by the Town Council on the issues of poor and inconsistent fiber Internet access has resulted in an exacerbated patchwork of availability that depends upon local homeowners' associations and other informal groups to install their own systems making it difficult and potentially more costly. Each of these systems has to be maintained throughout its lifetime (e.g.: Village homeowners group).

RECOMMENDATIONS - TOWN OF MAMMOTH LAKES

The Mono County Civil Grand Jury recommends:

R1-T Mammoth Lakes Town Council instruct town staff to complete a feasibility study by December 31, 2021 regarding creation of a *last mile* fiber network connected to Digital 395 throughout the Town of Mammoth Lakes. This study is to include an analysis of whether such a network may be owned and managed by a distinct government entity (examples include the town itself, a special district, community service district, or joint powers authority) that retains control over ownership, monitoring and granting access as an Internet service provider. This entity would also be poised to apply for funding such as the American Jobs Act. The study, to be completed by March 31, 2022 should include cost and time estimates, possibly for several different alternative solutions for consideration by the Town Council no later than April 30, 2022.

R2-T Mammoth Lakes Town Council instruct public works staff to develop a plan to facilitate future installation of conduit and fiber optic connections within the town through a policy of installing conduit, as is being done in the Parcel and CRC projects, anywhere where in-ground repairs and improvements are being made. This may require establishing cooperative activity with other entities as, for example, AmeriGas. The plan to be presented to the Town Council no later than January 31, 2022.

R3-T The Mammoth Lakes Town Council instruct staff to create a comprehensive management plan for the patchwork of municipal fiber and Internet access via fiber for the town (*last mile*), by June 1, 2022.

REQUIRED RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the grand jury requests responses as follows:

	Findings	Recommendations
Board of Supervisors	F1-C, F2-C, F1-C&T to F3-C&T	R1-C, R2-C, R1-C&T to R4-C&T
Mammoth Lakes Town Council	F1a to F1c-T, F2-T,	R1-T to R3-T

	F1-C&T to F3-C&T	R1-C&T to R4-C&T
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Pursuant to Penal Code §933 and §933.05, the Mono County Civil Grand Jury requests responses from the following governing bodies within 90 days:

- Mono County Board of Supervisors
- Mammoth Lakes Town Council

INVITED RESPONSES

- Nate Greenberg, Mono County IT Director: all findings and recommendations.
- Stacey Simon, Mono County Counsel: R1-C&T and R2-C&T
- Andrew Morris, Town of Mammoth Lakes Attorney: R1-C&T and R2-C&T

GLOSSARY

DIVCA - Digital Infrastructure and Video Competition Act of 2006

Escalation Portal - A [website](#) created by the Mono County IT department to allow Suddenlink (Altice) customers to register customer service issues that have not been addressed to their satisfaction, so that the issue is escalated to a higher level of management in the company.

ISP - Internet Service Provider

Last Mile - *Last mile* is a term widely used in telecommunications, cable television and Internet industries to refer to the telecommunications networks that deliver telecommunication services to retail end-users (customers). More specifically, the *last mile* describes the portion of the telecommunications network chain that physically reaches the end-user's premises. Digital 395 is considered a *middle mile* network; the *last mile* is the connection from Digital 395 to the end user.

MBPS - Megabits per second, a term used to describe Internet speeds.

<p>Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.</p>
