



Mammoth Lakes Town Council

P.O. Box 1609, Mammoth Lakes, CA, 93546

(760) 965-3610

www.townofmammothlakes.ca.gov

September 15, 2021

Honorable Mark Magit
Presiding Judge
Superior Court of California
Mono County
PO Box 1037
Mammoth Lakes, CA 93546

RE: Town of Mammoth Lakes response to the 2020-21 Grand Jury Fiber Internet Connection as Essential Infrastructure in Mono County Final Report

Honorable Judge Magit,

I am pleased to provide responses to the 2020-21 Grand Jury Fiber Internet Connection as Essential Infrastructure in Mono County Final Report and to the specific findings and recommendations related to the Report.

The Town of Mammoth Lakes with Mono County for IT services, and therefore the Mono County IT Department also serves as the Town of Mammoth Lakes IT Department. The Town and County work closely in collaboration on our IT matters. This response has been approved by the Town Council and prepared by Town staff with input from the Mono County IT Director, Nate Greenberg, and Town Attorney, Andy Morris.

Findings and Responses

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.

F1-C&T, F2-C&T and F3-C&T Response: *The Town Council agrees with these findings in part. The Town has received a number of comments and complaints regarding Suddenlink's broadband service, but we do not believe that all Suddenlink customers are unhappy. Regarding the escalation portal, Mono County IT advises that they have recently added basic language on how to use it.*

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.

F1a-T, F1a-T, and F1a-T Response: *The Town Council generally agrees with these findings.*

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).

F2-T Response: *It is unclear in this finding what action was expected of the Town Council, especially given the significant regulatory constraints identified by the Grand Jury in other findings. The Town does not agree with this finding to the extent it asserts that the Internet access issues in Mammoth Lakes were caused by the Town. The last mile networks currently in place in the Town of Mammoth Lakes were developed by Frontier Communication and Suddenlink (Altice), both of which are private entities that the Town has no authority over. The Town does currently participate in the practice of trench sharing, which allows for conduit to be placed when trenchwork is done*

throughout town. The Town believes that it is appropriate for HOAs to work to improve Internet access as they are in a better position than the Town to control and upgrade wiring onsite and inside units, which is necessary in many cases in order for residents and visitors to take advantage of the high Internet access speeds made possible by Digital 395.

Recommendations and Responses

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.

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.

R1-C&T and R3-C&T Response: *These recommendations have already been implemented in part. The Town Attorney is actively working on this with Mono County Counsel and representatives of two other counties and another town, and Information Technology will provide updates to the Town Council as appropriate, but not necessarily by October 31, 2021. However, the Town does not intend to establish a formal policy (and commitment of staff time) to monitor and respond to complaints submitted via the escalation portal.*

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.

R2-C&T Response: *The substance of this recommendation is already being implemented, but a plan may not be submitted by October 31st and there may not be quarterly discussions after that. Suddenlink only recently provided customer service standards to the Town and County. DIVCA makes it somewhat difficult to actually impose penalties for violations of these standards, because Suddenlink must be notified of violations and then given time to cure them before penalties can be imposed. There is some legal complexity and ambiguity as to what extent the customer service standards and penalties apply to broadband alone (as opposed to video). The Town will continue to*

work on enforcement, and is likely to develop its enforcement plans in concert with the County

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.

R4-C&T Response: *This recommendation has already been implemented by the Town/County IT staff. As discussed above, Mono County IT has recently added basic language on how to use the escalation portal.*

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.

R1-T Response: *The Town Council agrees that a solution is necessary. However, at this point in time the Council does not believe it is in the Town's best interest to own and/or operate a municipal fiber network and does not feel that a feasibility study is an appropriate use of Town funds and resources. As a result, the Town will not implement this recommendation. The Town continues to monitor changes regarding legislation at the state and federal levels that may impact future opportunities. Town staff will continue to explore viable alternatives to existing service providers and opportunities to improve service for its residents.*

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.

R2-T and R3-T Response: *These recommendations would be very challenging to implement. The Town will not implement Recommendation R3-T, and will not implement*

Recommendation R2-T in the specific form in which it has been presented. The Town does look for opportunities to install conduit when there are open trenches in Town rights-of-way, however a formal policy does not exist. This does result in a patchwork of fiber throughout the community and the Town Council does not believe it is within the Town's purview to manage or monitor this network. The Town could consider including conditions of approval on future projects that would require conduit and some level of fiber to be installed. The Town does see the value of municipally shared conduit in rights-of-way that could be used by public and private entities in the future and could be leveraged. The Town will continue to be opportunistic in its approach toward the installation of future conduit and/or fiber.

I would like to thank the Grand Jury for their efforts and for the service they provide our community. Their efforts add to the overall improvement and transparency of local government and provide an important oversight function for our residents. Thank you also to the Court for the assistance and guidance that is provided to Grand Jury.

Sincerely,

Bill Sauser
Mayor

cc: Town Council
Town Manager
Town Clerk
Town Attorney