

Reply to comments of Hicks Equity Partners LLC (HEP):

In their comments, HEP states they are a large shareholder in DirecPath,LLC which is a PCO in the Southeast and in Texas. They also mention that Exclusive Contracts (ECs) are an essential condition to their investment in a PCO. That information, alone, explains their comments.

According to HEP "Far from discouraging competition, ECs allow PCOs to offer the only real competition for MDU residents. This is true because negotiation of exclusive access rights provides the occasion on which video providers must compete on price, service and product offerings in competition with a party of roughly equal bargaining power (an MDU owner of HOA)." also "an MDU owner or HOA can negotiate for better pricing and service as a condition of right of entry on the property."

This all sounds great if homeowners actually have a voice in these negotiations. But what if the developer of an MDU decides its own PCO is best for the development before the first house is sold? What negotiating power did the homeowners have? NONE!!! The PCO provider, aka the developer, set the price, the service level agreement and the product offering with no input for residents. The residents are told the services are state-of-the-art during the sales pitch only to discover a totally different horror story after moving into their house.

HEP adds "taking away the ability to negotiate exclusive PCO contracts will only deprive MDU residents of cutting edge broadband products and services." Let's see. The 15 year "negotiated" exclusive PCO contract that gives me internet service that tested at an unbelievable 15kbits/sec and did not allow me to take the MLB video service last season is the cutting edge broadband product I will be deprived of if ECs are banned for all MVPDs to MDUs? PLEASE, PLEASE deprive me!!!!