

November 2, 2010

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Notice of Ex Parte Presentation: *Schools and Libraries Universal Service Support Mechanism* (CC Docket No. 02-6)

Dear Ms. Dortch:

On Monday, November 1, 2010, Mary Brown of Cisco Systems, Inc. (“Cisco”) and the undersigned, on behalf of Cisco, met with Carol Matthey, Deputy Chief of the Wireline Competition Bureau (“WTB”) and Trent Harkrader, Chief of WTB’s Telecommunications Access Policy Division to discuss the treatment of “unbundled warranties” in the *2011 ESL Order*.¹

The purpose of the meeting was to explain the significant confusion in the E-rate marketplace that has resulted from the language in the *2011 ESL Order* regarding “unbundled warranties.” Cisco urged the Commission to clarify that standard contracts for maintenance of internal connections, such as Cisco’s SMARTnet product, are not “unbundled warranties” as defined in the *2011 ESL Order*. These products meet the standards for eligible basic maintenance of internal connections and are the predominant way that networking software and hardware are supported in the enterprise marketplace. These contracts are therefore eligible for support as basic maintenance of internal connections, and the Commission should clarify this issue without delay.

Cisco’s presentation in the meeting followed the attached slides, which were distributed to the attendees. Cisco also observed that, where equipment warranties are bundled into the price of internal connections equipment, E-rate funds are de facto being used to pay for such

¹ *Schools and Libraries Universal Service Support Mechanism; A National Broadband Plan For Our Future*, CC Docket No. 02-6, GN Docket No. 09-51, Sixth Report and Order, FCC 10-175 (rel. Sept. 28, 2010).

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warranties in the price of the equipment. In Cisco's view, the Commission should clarify that the presence of equipment warranties as one element in a maintenance contract like SMARTnet does not disqualify the offering from E-rate support or require cost allocation, where the other elements of the contract are clearly eligible maintenance of internal connections. Alternatively, the Commission should require cost allocation and exclusion of that cost whenever the price of internal connections equipment includes hardware warranty or in circumstances where an otherwise eligible maintenance plan includes hardware warranty.

Cisco looks forward to working with the staff to expeditiously clarify the order in order to resolve the confusion in the E-rate community.

Sincerely,

/s/

L. Charles Keller

Attachment

cc (email): Carol Matthey
Trent Harkrader



ESL 2011 and Cisco SMARTnet

Mary Brown, Government Affairs

Today's networking market

- Computer networks are comprised of both hardware *and* software
- Virtually all enterprises today have internal networks – “internal connections” are not just for schools
 - E-rate benefits from economies of scale by being part of the broader enterprise market
 - E-rate is a relatively small part of the overall enterprise networking market
- Networking software (like all software) requires frequent updates and bug patches. Also, users require on-demand technical support.
- Equipment warranties vary, and many networking companies provide ongoing software updates and technical support as a separately priced offering

Standard Industry Practices

Maintenance in the Marketplace				
Service Element	Cisco SMARTnet	HP ProCurve Care Packs	Juniper Care	3Com Guardian
Duration of coverage	<ul style="list-style-type: none"> ▪ Annual contracts ▪ Multi-year contracts 	<ul style="list-style-type: none"> ▪ Mainly 3 years ▪ Sometimes 1 year 	<ul style="list-style-type: none"> • Annual contracts ▪ Multi-year contracts 	<ul style="list-style-type: none"> • Annual contracts ▪ Multi-year contracts
TAC access	24x7	24x7	24x7	8x5, 24x7
Web support	Yes	Yes	Yes	Yes
Advance hardware replacement (AHR)	<ul style="list-style-type: none"> ▪ 8x5x Next Business Day (NBD) ▪ 8x5x4 ▪ 24x7x4 ▪ 24x7x2 	<ul style="list-style-type: none"> ▪ 13x5x4 or 24x7x4 ▪ 24x7 SW-only service omits AHR 	<ul style="list-style-type: none"> • 12x5 NBD • Same Day 	<ul style="list-style-type: none"> • 8x5xNBD
On-site available	Yes	Yes	Yes	Yes
SW updates, bug fixes	Yes	Yes	Yes	Yes

Source: Cisco Services Market Intelligence and Competitive Intelligence, August 2010

SMARTnet – efficiently designed to lower customers' opex

- SMARTnet: A cost-sharing tool for *all* enterprise customers to access software, tools and information they need to maintain their networks
 - More than 80% of Cisco S&L customers resolve support issues online
 - Access to 90,000 technical documents
 - Award-winning “gold standard” for network maintenance and support in the global enterprise market
- Software features and patches are largest percentage of Cisco’s cost invested; software development is generic, not “per customer”
- Live online and telephone engineering support is a sunk cost most efficiently shared across the global enterprise customer base 24x7x365
- Spare parts stocked locally at depots around the country - 900 such depots globally
- **These customer maintenance needs are best served through a uniform support model. If provided on a pro-rated or time-and-material basis, Cisco’s cost, and price to customers, would rise substantially**



The Order has created enormous confusion in the E-rate community

- Standard network maintenance contracts have all of the characteristics of covered basic maintenance

Computer networks “will not function but for” the software updates and technical support provided with standard network maintenance contracts

Allow networks to operate “with the same degree of reliability ordinarily provided in the market”

- FCC could not have intended to exclude the standard type of maintenance arrangement for enterprise networking equipment
- *BUT:* Standard maintenance contracts are separately priced and not priced based on actual “hours” used

Cisco SMARTNet and Erate: ESL 2011

Reimbursable

Basic maintenance contracts as priority 2 “if, but for maintenance at issue, the internal connection would not function and serve its intended purpose with degree of reliability provided in the market”

Manufacturer’s Warranty up to 3 years on equipment

Upgrades to operating system software

Not reimbursable

Unbundled warranty separate from manufacturer’s warranty that enables broken equipment to be fixed or replaced

Cisco SMARTnet and Erate: ESL 2011

SMARTnet functionality added in RED

Reimbursable

Basic maintenance contracts as priority 2 “if, but for maintenance at issue, the internal connection would not function and serve its intended purpose with degree of reliability provided in the market”

Manufacturer’s Warranty up to 3 years on equipment

Upgrades to operating system software and software support for increased performance, security, efficiency, etc. (e.g., software patches generic or customer-specific, as needed)

Free upgrades when new software features introduced

Proactive bug notification and fixes

Access to live technical assistance desk 7x24x365(via phone)

Access to Cisco knowledge database and online tools

Above applies to eligible equipment

Not reimbursable

Unbundled warranty separate from manufacturer’s warranty that enables broken equipment to be fixed or replaced

Hardware replacement beyond the standard limited 90-day warranty¹

¹Appears to be partially reimbursable if Cisco revised our warranty program to fit FCC’s 3 year warranty period.

2011 ESL's basic maintenance reimbursement methodology

Not the way business is done

2011 ESL: Hourly work actually performed

Basic maintenance contracts: grantees can seek payment for upfront maintenance contracts if able to estimate number of hours, but reimbursement will be only on the basis of work performed

SMARTnet: Flat annual fee

SMARTnet represents standard industry approach to IT support, used for all types of enterprises

Not "hours", but software downloads

7.5m software downloads/month globally

More than 37,000 software downloads for US S&L customers in September 2010¹

Not "hours" but online tools and live tech support available to S&L IT departments

Wiki, NetPro Global Community (including online conferences)

No truck roll, no person on a time clock, no screwdrivers, no pliers

¹Once downloaded, software likely to be replicated throughout the network.

S&L customers have made clear they cannot support basic maintenance of computer networks on their own

- Marlboro County (SC schools: Presently our District has only 1 network engineer on staff to maintain a network of 10 routers, approximately 50 servers, numerous switches, access points and other networked equipment as well as software. The unbundled warranties allow equipment to be fixed or replaced in a timely manner in order to keep the network functioning without prolonged interruption. We greatly depend on E-Rate support to assist us in providing a dependable network for the education of our students.
- NY City: We strongly encourage the continuation of funding for basic maintenance which we believe, in the long run, is best cost effective measure for both applicants and the program. Maintenance is essential and encourages applicants to extend the effective use of purchased equipment and the established networks. It is understandable that there are major concerns regarding the funding of maintenance, especially because there is generally no tangible “proof” other than the fact that the equipment and networks are functioning as intended. This is a critical funding component to sustain the investment that both school districts and the FCC have made over the last 12 years of the E-rate program existence.

No legal, technical, or policy basis

- FCC provided no notice of its new “must estimate hours” rule
If it had, Cisco would have objected based on all the arguments here
- Unbundling basic maintenance avoids hidden charges and protects the fund
Under the new rule, the same services would be funded if maintenance service fees were bundled into equipment price
- Intrusive rules don't respect dynamic market competition
- The market has spoken – a standard offer for maintenance with fixed costs spread across all enterprises is more effective, less expensive, more transparent and more predictable for IT budgets.
E-rate should benefit from provider experience and economies of scale in the broader enterprise market

Order or ESL must be clarified without delay

- “Separately priced, standard enterprise service packages that provide network software operating system updates, bug repair, access to online and/or telephone-based technical assistance and tools are not unbundled warranties.”
- Inclusion of hardware warranties in maintenance plans should not otherwise disqualify them for e-rate support

Standard maintenance packages are used all day, every day by IT departments for software downloads, network and equipment problem solving, and ensuring networks are operable, efficient, and secure.



CISCO