

November 18, 2010

Via ECFS

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

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

Dear Ms. Dortch:

On Thursday, November 18, 2010, Mary Brown of Cisco Systems, Inc. (“Cisco”) and the undersigned, on behalf of Cisco, met in separate meetings with Angela Kronenberg of Commissioner Clyburn’s office and Brad Gillen of Commissioner Baker’s office to discuss the treatment of “unbundled warranties” in the *2011 ESL Order*.¹

The purpose of the meetings 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.

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).



ESL 2011 and Cisco SMARTnet

Mary Brown, Government Affairs

Issue Summary

- Eligible Services List 2011 order
 - Set new rules for reimbursement of basic maintenance costs
 - Impacted different vendors differently depending upon degree to which maintenance is bundled in equipment prices
 - Did not provide a meaningful opportunity for vendors to adjust offers to comply
 - With 2011 basic maintenance reimbursement in jeopardy, did not give schools and libraries an opportunity to fund through other means

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

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

Internal connections costs are recovered on a flat annual fee

SMARTnet – efficiently designed to lower customers' opex

“Gold standard” for network maintenance in the global enterprise market

- 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

37,000 S&L customer software downloads in Sept. 2010 (7.5m globally) – added features, patches, bug fix

Live online and telephone engineering support is a sunk cost most efficiently shared across the global enterprise customer base 24x7x365

Access to 90,000 technical documents

Spare parts stocked locally at depots around the country – 900 such depots globally

- Forcing reimbursement to “hours” work performed is a problem**

Large amount of maintenance is customer-initiated, customer-resolved

Flat fee spreads cost and saves the customer money

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.



No legal, technical, or policy basis for result in ESL 2011 decision

- 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

Problems in the Order and ESL must be corrected without delay

- Current BMIC offerings at flat, upfront charges providing constant networking software maintenance should be supported.
- BMIC contracts that include an equipment warranty should be supported, or subject to standard cost-allocation requirements.

Given pending customer RFPs and 2011 funding cycle, FCC needs to correct its order immediately.



CISCO