

# EXHIBIT FIVE

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

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W. Mauldin Smith	)	
	)	
v.	)	Docket 08-0474
	)	
Illinois Bell Telephone Company	)	
	)	
Complaint as to whether the disconnection of a business	)	
number that existed more than 30 years was justified under	)	
Illinois law and the facts of this case in Chicago, Illinois	)	

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## INITIAL BRIEF OF ILLINOIS BELL TELEPHONE COMPANY

W. Mauldin Smith ("Mr. Smith" or the "Complainant") filed a formal complaint (the "Complaint") against Illinois Bell Telephone Company ("AT&T Illinois") on August 8, 2008, asserting that AT&T Illinois improperly disconnected his business line after he failed to pay past-due amounts owed on his business account. AT&T Illinois submits this brief following the evidentiary hearing on the Complaint.

### FACTS

#### Complainant's Business Account

Mr. Smith is an African-American male (Tr. 37:18)<sup>1</sup> who has two accounts with AT&T Illinois: a residential account and a business account (*see* Tr. 58:21-59:1; Tr. 60:2-4). Only the business account, Account No. 312 263-2980 5853, is at issue here. The only service provided on the business account was a forwarding service, which sent calls that were made to telephone number (312) 263-2980 to a different telephone number for completion. Tr. 59:2-21.

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<sup>1</sup> In this brief, references to the transcript of the November 20, 2008 evidentiary hearing in this case are indicated by "Tr." followed by the relevant page number(s), a colon, and the relevant line numbers. References to exhibits used at the evidentiary hearing are indicated by "AT&T.Ex." or "Smith Ex." followed by the exhibit number.

collect on Mr. Smith's past due balance because his bankruptcy had been dismissed. Tr. 91:18-92:8. Mr. Smith claimed that AT&T Illinois was not following proper collection procedures and was discriminating against him based on his race. Tr. 92:3-4.

AT&T Illinois contacted Mr. Smith again on Friday, July 18. This call was a three-way call that included Mr. Smith, a specialist from AT&T Illinois' collections department, and a manager from the billing department. See Tr. 159:2-8. According to AT&T Illinois' records, Mr. Smith refused to allow the AT&T Illinois representatives to present him with any payment options, and a payment plan was not set up. Tr. 92:12-93:8. AT&T Illinois' representatives concluded that since they could not reach a resolution with Mr. Smith, the informal complaint process had run its course and the complaint was closed. See Tr. 105:5-14; Tr. 154:20-155:6; Tr. 157:4-13; *see also* Tr. 153:11-22. At AT&T Illinois, an informal complaint is considered closed once "the manager [who's] handling the complaint" has "contacted the customer," "discussed the issue [raised by the informal complaint] with the customer," and "given [the Customer AT&T Illinois'] final response." Tr. 135:16-22. Since Mr. Smith's informal complaint was no longer pending, the business line was disconnected on July 18.

Ms. Anderson reported this information to the CSD on Monday, July 21, the day she returned from her July 17-18 vacation. Tr. 141:2-142:13. In a follow-up conversation with the Commission's CSD, Ms. Anderson explained that although she transmitted her report to the CSD on July 21, the final actions on Mr. Smith's informal complaint occurred on July 18. Tr. 142:14-144:14. The Counselor from the CSD told Ms. Anderson that he understood why AT&T Illinois "considered [the] issue to be closed on the 18th," and did not indicate that AT&T Illinois had taken any inappropriate action on Mr. Smith's account. Tr. 144:7-14.

EMPHASIS ADDED