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DEC 8 1987

OFFICE OF CHIEF COUNSEL  
CORPORATION FINANCE

**Bell Atlantic**

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Katherine A. Dunne  
Attorney

December 8, 1987

Securities and Exchange Commission  
Office of Chief Counsel  
Division of Corporation Finance  
450 Fifth Street, N.W.  
Washington, D.C. 20549

PUBLIC AVAILABILITY DATE: 12-16-87  
ACT SECTION RULE  
1934 14(a) 14a-8

RE: Bell Atlantic Corporation 1988 Annual Meeting -  
Proposal of Monsignor Leo J. Conti

Gentlemen:

This statement and the material enclosed herewith are submitted on behalf of Bell Atlantic Corporation (the "Company") pursuant to Rule 14a-8(d) of the Securities Exchange Act of 1934. It is the Company's intention to omit the enclosed shareholder proposal and supporting statement (the "Proposal") submitted by Monsignor Leo J. Conti (the "Proponent") from the Company's proxy statement and form of proxy for the Company's 1988 annual meeting (the "1988 Proxy Materials"). Your advice is requested that the Division of Corporation Finance (the "Staff") will not recommend any enforcement action to the Securities and Exchange Commission (the "Commission") if the Proposal is so omitted.

The Proposal seeks to abolish the Company's Short Term Incentive Plan, which covers senior managers of the Company and certain of its subsidiaries. The Plan became effective on January 1, 1984, following the divestiture of the Company from American Telephone and Telegraph Company ("AT&T"), and is substantially similar to short-term incentive plans maintained for senior management by AT&T and its affiliates prior to that date. The Plan provides annual cash awards based upon achievement of Company performance and individual performance criteria. Company and individual performance criteria are established by the Human Resources Committee of the Company's Board of Directors, pursuant to authority delegated to the Committee by the Board, and relate to financial performance and customer service satisfaction. Under the Plan, the Board sets a standard award amount for each senior management level. Senior

managers may receive from zero to 200% of the standard award established for their level based upon corporate performance, subject to adjustment for individual performance. Based upon information available to the Company, the Company believes that the Plan, in both criteria for awards and the amounts of such awards, is comparable to and competitive with plans utilized by many other "Fortune 100" corporations and major communications and service providers comparable to the Company.

After review of applicable law and such corporate records and other documents as I have deemed relevant, it is my opinion that, for the reasons hereinafter stated, the Proposal may be omitted from the Company's 1988 proxy materials because (a) the Proposal relates to the conduct of the ordinary business operations of the Company within the meaning of 17 C.F.R. Section 240.14a-8(c)(7); (b) the Proposal is not a proper subject matter for shareholder action within the meaning of 17 C.F.R. Section 240.14a-8(c)(1); and (c) the Proposal is misleading, contrary to 17 C.F.R. Section 240.14a-9, which prohibits misleading statements in proxy solicitation materials, and therefore excludable from the 1988 Proxy Materials under 17 C.F.R. Section 240.14a-8(c)(3).

- I. The Proposal deals with a matter relating to the conduct of the ordinary business of the Company and may therefore be omitted under Rule 14a-8(c)(7).

The Company is organized under the General Corporation Law of the State of Delaware (the "GCL"). Section 122(5) of the GCL provides that among the powers of a Delaware corporation is the power to "appoint such officers and agents as the business of the corporation requires and to pay or otherwise provide for them suitable compensation." Section 122(15) of the GCL further provides that among such powers of a Delaware corporation is the power to establish and carry out incentive and compensation plans for any or all of the directors, officers and employees of the corporation and its subsidiaries. The GCL also provides at Section 141(a) that the business and affairs of a Delaware corporation are under the direction or management of the corporation's board of directors. Consistent with Delaware law, Section 2.01 of the Company's By-laws provides that all powers of the Company, except those specifically reserved or granted to the stockholders by statute, the Company's Certificate of Incorporation or the Company's By-laws, are vested in the Company's Board of Directors.

Under Delaware law and the Company's By-laws, therefore, the Company's Board of Directors has the responsibility for direction of the day-to-day management of the Company. Included in that management function is the task of setting compensation for

employees in a manner which management and the Board of Directors believe to be in the best interest of the Company. Cash awards based upon the short-term performance of the individual senior manager and of the Company are an important element of executive compensation, and clearly fall within the ordinary business of the Company.

The Staff has consistently found that proposals relating to compensation of employees are within the ambit of a corporation's ordinary business operations, and need not be submitted for shareholder consideration. Thus in 1984 the Staff indicated that it would not recommend any enforcement action if the Company omitted from its 1986 proxy statement a shareholder proposal to change the benefit formula for the Company's Management Pension Plan. Bell Atlantic Corporation (avail. December 12, 1984). Since that time the Staff has repeatedly indicated that it would not recommend any action to the Commission in connection with proposals substantially similar to the Proposal. Recent no-action advice on similar proposals includes Key Tronic Corporation (avail. August 25, 1987) (proposal that corporation's shareholders be allowed to approve or disapprove salary increases for certain highly compensated employees); TPI Enterprises, Inc. (avail. July 15, 1987) (proposal that corporation's board of directors take all legally available steps to nullify certain amendments and modification, relating to compensation, to the corporation's employment agreement with its chairman and chief executive officer); The Great Atlantic and Pacific Tea Company (avail. April 10, 1987) (proposal relating to establishing a formula for determining the amount of increase or decrease in the compensation of the corporation's directors and officers).

- II. The Proposal is not a proper subject for shareholder action under Delaware law and may therefore be omitted under Rule 14a-8(c)(1).

As noted above, the Company is organized under the GCL, which states that among the powers of a Delaware corporation are the power to provide for officers' and agents' compensation and the power to establish and carry out incentive compensation plans for officers, directors and employees of the corporation and its subsidiaries. The GCL and the Company's By-laws squarely place these powers under the supervision of the Company's Board of Directors.

The Proposal is mandatory in form and therefore, if adopted by a majority of the Company's shareholders, would constitute an infringement on an area of management reserved to the Company's Board of Directors by Delaware law, the Company's Certificate of Incorporation, and the Company's By-laws. I am aware of a note

to the cited Rule expressing the Commission's view that a proposal which is mandatory in form may be permissible under state law if rephrased in a precatory manner. However, the Proposal so clearly invades and preempts a matter committed to the discretion and business judgment of the Board of Directors that recasting the Proposal in precatory form should not be sufficient to overcome the Proposal's inherent flaw. In this connection, reference is made to Release No. 34-20091 (August 16, 1983), Section II.E.1., where the Commission states that the cited Rule is not applied merely on the basis of the form of the proposal.

**III. The Proposal is misleading and should therefore be omitted under Rule 14a-8(c)(3).**

The Proposal refers twice to the compensation of the "President" of the Company. Effective January 1, 1988, Mr. Raymond W. Smith, currently Vice President and Chief Financial Officer of the Company, will assume the offices of President and Chief Operating Officer of the Company. At no time prior to such date has the Company had a President. Therefore the Proposal, in referring to compensation of \$580,000 to an officer whose office will not even exist until January 1, 1988, is misleading. In addition, the \$580,000 figure given in the Proposal for the "President's" salary was the salary of the Company's Chairman and Chief Executive Officer in 1986, not 1987. Shareholders, in reading the proposal, are likely to believe that the figures given in the Proposal are 1987 figures.

Finally, in stating that it should not be the case that the Board sets its own compensation, the Proposal is misleading by implying that the adoption of the Proposal would be consistent with Delaware law and the Company's By-laws; to the contrary, adoption of the Proposal would require the Board to abrogate Delaware law and the Company's By-Laws, both of which clearly require the Company's Board of Directors, and not its stockholders, to have overall responsibility for the compensation of the Company's directors and officers.

In summary, it is my opinion that the Proposal may be omitted from the 1988 Proxy Materials because the Proposal relates to the ordinary business operations of the Company, because the Proposal is not a proper subject matter for shareholder action, and because the Proposal is misleading in several respects.

A copy of this statement has been sent to the Proponent to advise him of the Company's intention to omit the Proposal from the Company's proxy statement and form of proxy. The Company

plans to file preliminary proxy materials with the Commission on or about February 7, 1988. Five additional copies of this statement, and five copies of each enclosure, are submitted herewith. Kindly stamp one additional copy of this statement to indicate receipt by the Commission, and return it to our messenger.

Very truly yours,

*Kathy Dineen*

cc: Monsignor Leo J. Conti

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April 11, 1987

Mr. William Albertini  
Corporate Secretary  
Bell Atlantic Corp.  
1600 Market St.  
Philadelphia, Pa. 19103

Dear Sir,

Kindly list the following as a shareholder's proposal at the 1988 stockholders' meeting, same to be printed on proxies:

"Proposal of stockholder  
Item A on Proxy Card

Msgr. Leo J. Conti, 4200 N. Kentucky Ave., Evansville, Indiana 47711 submits the following proposal for proxy vote at the 1988 Bell Atlantic Stockholders meeting:

RESOLVED: That the short term Incentive plan for senior managers be abolished.

REASON: 1. Management is adequately compensated as indicated in cash compensation table.

2. Compensation for the President of \$580,000.00 is adequate and commensurate with his responsibilities. Same is the case with other officers.

3. Additional "Incentive Plan" which allows the president added 500,000.00 is not justified and is excessive. Under this plan other executives also receive extra compensation is unjustified and excessive. These are also in the six figures.

4. It seems clear that the Board can set its own compensation. This should not be the case.

5. It must be remembered that these large salaries and supplemental income comes from the consumers, who must pay for same in the form of increased rates.

6. A greater sense of social responsibility clearly calls for the abolishment of the "Short Term Incentive Plan" for senior managers. An affirmative vote on this resolution will provide a clearly needed revision of the Corporation's policy on Executive compensation. VOTE YES. 11

*Leo J. Conti*

Rev. Msgr. Leo J. Conti

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RESPONSE OF THE OFFICE OF CHIEF COUNSEL  
DIVISION OF CORPORATION FINANCE

Re: Bell Atlantic Corporation (the "Company")  
Incoming letter dated December 8, 1987

The proposal relates to the Company abolishing its Short Term Incentive Plan.

There appears to be some basis for your opinion that the proposal may be omitted from the Company's proxy material under Rule 14a-8(c)(7), since it appears to deal with a matter relating to the conduct of the Company's ordinary business operations (i.e., executive compensation). Under the circumstances, this Division will not recommend any enforcement action to the Commission if the Company omits the subject proposal from its proxy material. In considering our enforcement alternatives, we have not found it necessary to reach the other bases for omission upon which you rely.

Sincerely,



Cecilia D. Blye  
Special Counsel