

2007 Steam Tunnel Explosion: Impact on Local Retail Businesses

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Introduction

On July 18, 2007 at 5:56 pm, a massive rupture in a steam main at 41st and Lexington Avenue sent a plume of steam, rubble, dust and other matter into the air. Tragically one woman lost her life as a result of the explosion, and many others were seriously injured. Many businesses in the area surrounding the crater were devastated by the impact of the explosion, some sustaining significant physical damage and many experiencing crippling economic losses. In order to get a better sense of the impact of the explosion on area businesses, Congresswoman Carolyn Maloney (D-NY) conducted a survey of retail establishments located in the frozen zone. This report outlines the results of the Congresswoman's survey of 71 retail stores. The survey was limited to retail enterprises because of the difficulty of surveying commercial businesses above the ground floor.

At the time this survey was conducted, many businesses were closed and some remain closed to this day. Although the majority of the stores were surveyed more than ten days after the explosion, a significant number of businesses indicated that they had not received any information about either Con Edison's reimbursement program or the City's no interest loans¹.

According to the New York City Department of Small Business Services (SBS), there are approximately 125 retail businesses in the area. Some of the businesses lost steam, others had their windows blown out. Some suffered physical damage, but the vast majority report that the largest share of their monetary losses are attributable to lost business. Because many of the retail stores most directly impacted were not open at the time of the survey, some of the most serious damages are not included in the results.

Results of the Survey

From July 26th through July 31st, members of Congresswoman Maloney's office visited retail businesses in the frozen zone. Sixty, or 85%, of the businesses were forced to shut down and nearly half, or 33 (46%) were closed for more than one day. For those businesses forced to close more than a day, the average shutdown was 4.2 days, although some were still closed when they were contacted. Businesses surveyed reported over \$1,266,550 in losses², the vast majority of which were caused by lost business.

The survey finds a great deal of confusion among business owners as to what losses were reimbursable, and what programs might be available to help them. Although the survey was conducted more than two weeks after the explosion, only 10% reported receiving prompt or

¹ It should be noted that the U.S. Small Business Administration declared the area a disaster on July 27, 2007, one day after the survey commenced.

² Many of the most seriously affected businesses were closed at the time of the survey and either could not be reached, did not know the full scope of their losses or declined to respond.

useful information from either the City or Con Edison. In fact, many businesses reported that they had received no information at all until they were approached by the Congresswoman's office. Since they were the first point of contact for many of the businesses, the Congresswoman's staff provided many with Con Edison's hotline number and other materials. Additionally, Congresswoman Maloney mailed every business that participated in the survey a copy of handouts regarding assistance available prepared by SBS and the U.S. Small Business Administration (SBA).

Many businesses that have physical damages or other losses report having no plans to seek reimbursement from Con Edison. Others indicate that they have heard that there is a cap on the amount of damages that Con Edison will reimburse³, or that Con Edison will not reimburse businesses that were closed for less than 12 hours. Clearly, Con Edison should be doing a better job of explaining what damages are reimbursable and which businesses are eligible to receive reimbursement. Their failure to provide clear advice is discouraging many businesses from applying for reimbursement.

On July 21, 2007, SBS announced its intention to offer no interest loans of up to \$10,000 to qualified businesses.⁴ None of the businesses surveyed indicated that they were aware of the program. Typically, the survey found that businesses did not know where to turn for assistance. One owner said he's "working alone – doesn't know who to ask."⁵

Only 7 businesses indicated that they were planning to apply for a loan from the SBA or other governmental agency. Nearly all the businesses indicated that they had never received any written information from any entity advising them as to what damages are compensable.

Impact of Explosion

Interruption of Service

Con Edison reports that 18 customers (by which they mean buildings) lost steam, but that none of their customers lost electric power. At a hearing before the New York City Council Committee on Consumer Affairs on August 7, 2007, Con Edison testified that only five of these customers lost steam as a direct result of the rupture. The remaining 13 customers lost steam because Con Edison had closed valves to prevent steam from entering the rupture site. Con

³ In actual fact, Con Edison is not capping damages, although they are limiting the type of damages for which they will provide reimbursement to physical losses.

⁴ At the August 7, 2007 hearing of the New York City Council's Committee on Consumer Affairs, SBS testified that they had received only 40-50 applications and that only 10 had been processed at that time. On the same date, the SBA reported that they had provided applications to 46 businesses, and that none had yet been returned or processed.

⁵ Mizanur of 43rd News and Smoke Shop, interviewed July 30, 2007.

Edison reported that these 13 customers had service restored within two days (July 19 - July 20) when Con Edison reopened the valves. One had service temporarily restored by a boiler truck on

July 22⁶. Three additional customers had service restored on July 25th when Con Edison capped west of the intersection. The last customer had service restored after Con Edison capped a damaged section of the main and rerouted the service on July 28.⁷

Only two of the businesses (3% of the total) report losing steam power. The low number is likely due to the fact that many of the businesses most directly impacted had not yet reopened. Additionally, businesses in the 13 buildings that had power quickly restored may not have realized that steam power had been lost. Warm summer weather and the fact that electrical power remained available undoubtedly also were factors in the small number of businesses reporting loss of steam.

Physical Damage to Premises

A quick walk around the incident area make it easy to spot many of the businesses that experienced the full force of the explosion. Plywood covers many storefronts, as well as windows high above street level. Businesses closest to the incident area were most likely to have windows or doors that shattered or cracked as a result of the explosion. Many of the other businesses that had experienced the most severe physical damage were on higher floors or were still closed, and therefore did not participate in the survey. Only 3 (4%) of the businesses surveyed had lost windows.

Businesses Required to Close

Virtually all of the businesses in the area experienced some period of closure. Some along the outer area were fortunate enough to have minor disruptions. Others were closed for many days. Those located in 369, 370 or 374 Lexington Avenue were closed for nearly two weeks, and some experienced damage so severe that they have not yet been able to reopen.

The longest closure reported was 22 days, as of the date of this report (the business remains closed). If you factor out the businesses that were able to reopen the following day, the average closure was 4.2 days.

Losses

The survey indicated that most of the businesses (60 or 85%) reported monetary losses. Most indicated that the most or all of their damages resulted from lost business.

⁶ Con Edison reports that it was able to permanently restore service on July 28.

⁷See Appendix C

Many of the businesses were closed for an extended period of time, and some indicated ongoing loss of businesses because their businesses were inaccessible. One Grand Central business was closed for one and a half days, but the entrance leading to their store was closed for four days. The respondent stated: “Since people couldn’t access the store, we lost about a week’s sale. Overall the month’s sales dropped 80%.”⁸

One food purveyor located in Grand Central, Pescatore Seafood Co., was told by Con Edison that his business was not eligible for reimbursement because had not been closed for more than 12 hours. The information provided by Con Edison was simply wrong – the 12 hour limit applies to electric outages and is contained in the tariff that applies to electricity. It does not apply to steam. Congresswoman Maloney’s office was able to persuade Con Edison to take another look at this case.⁹ Regrettably, in the absence of clear guidelines, Con Edison’s own people have trouble determining which losses are covered.

Part of the confusion stems from the fact that losses from steam are treated differently from losses from an electric power outage. Electric power outages are governed by a tariff that limits Con Edison’s losses to \$7,000, requires the claim to be filed within 30 days and provides that the power must have been out for more than 12 hours for someone to claim loss of food items. None of those limits apply here because these damages were caused by a disruption to the steam.

As of August 6, 2007, Con Ed reported receiving 2,563 claims for damaged clothing and personal belongings, 29 claims for cars that were damaged and 27 commercial claims. The company reports that at that time, it had issued 1,786 reimbursement checks worth a total of \$844,247.56.¹⁰

Insurance Coverage

Most of the companies did not have insurance coverage for the losses they incurred as a result of the explosion.

⁸Access & Artisans, located in the Lexington Passageway of Grand Central Terminal, interviewed July 30, 2007

⁹ The business was forced to close Wednesday evening in the immediate aftermath of the explosion but was permitted to open the next day. The business lost \$15,000, one third due to lost perishables. The respondent reports that “the police were telling people that they could not get out our way, our business was down 80%. Con Edison said we are not eligible because we were open.” Glenn Licht, Pescatore Seafood Co, interviewed 7/27/07

¹⁰The New York Times, “Blast Cause Won’t Be Known For 2 Months, Con Ed Says” by Ken Belson, August 8, 2007

Only 23 companies (32%) reported that they had business interruption insurance or other insurance that they believed might cover some of their losses. Many with insurance have found that it will not cover their damages relating to the explosion. For example, two businesses reported that although their businesses had business interruption insurance, their policies had a three day loss of business minimum. Neither was closed the requisite number of days. Others indicated that their business interruption coverage was limited.

Since Con Edison refuses to cover business losses, individual businesses are being forced to shoulder the risk of an extraordinary event caused by the utility's aging infrastructure. Business interruption insurance might cover the damage, but fewer than 1/4 of the area's businesses report having business interruption insurance. The Congresswoman found similar results in her 2006 survey of businesses impacted by the power outage in Western Queens¹¹. With increasing demand on an increasingly ancient system, it appears likely that so-called extraordinary events such as the 2006 blackout in Western Queens, the 2003 power outage throughout the East Coast and the 2007 steam pipe explosion near Grand Central Station will occur with increasing regularity. Businesses have no control over the state of repair of Con Edison's equipment, and regulatory authorities should give greater consideration to whether they should be required to bear the cost of the utility's equipment failure.

Adequacy of Information Provided by Con Edison or the City

More than two weeks after the explosion, most businesses had not heard from representatives of either Con Edison or the City of New York. Business owners had very little idea of what assistance was available to them and what damages are reimbursable. There is reason to hope that the outreach to businesses will improve, but unless there is a simple, easy to understand outline of what losses can be claimed, most businesses will be left with the impression that their losses are not covered.

Con Edison's reimbursement form refers to clothing or belongings and is clearly not designed for the business customer. While they have a line on their website entitled "Reimbursement Information"¹² there is only information about where to bring contaminated clothing or belongings.¹³ Business customers are advised to call the hotline for more information.¹⁴ When a member of the Congresswoman's staff visited the Business Reimbursement Center at Commerce Bank, she was advised that there is no handout for businesses about what losses might be reimbursable.

¹¹Blackout Outrage: Impact of Power Outage on Businesses in Western Queens

¹²<http://www.coned.com/>

¹³<http://www.coned.com/messages/Reimbursement%20Form.pdf>

¹⁴http://www.coned.com/messages/message20070803_3.asp

In light of the poor information available to business customers, it is no surprise that Con Edison has reportedly responded to only 27 commercial claims.

How the Survey Was Conducted

In order to ascertain the severity of the impact of the power outage, Congresswoman Maloney sent members of her staff to interview business owners and managers in the frozen zone. The survey was done over a period of 5 days from July 26th through July 31st, with the majority of businesses being surveyed on July 30th and 31st. Some business owners responded immediately; others took the survey and faxed it back to Congresswoman Maloney's office at a later time.

The survey consisted of 15 basic questions in four categories:

Impact of Explosion:

Did your building lose steam power?

Were your windows blown out?

Was your business required to close at any time as a result of the explosion? If so, how long?

Losses:

What is your estimate of monetary loss due to the explosion?

How much of your loss stems from lost business?

Do you plan to apply for assistance from the U.S. Small Business Administration or other government agencies? If so, which agency?

Have you received any written information as to what losses are reimbursable?

Have you put in a claim with Con Edison for losses resulting from the explosion?

Did you hire an inspector and/or cleaning crew to inspect and/or clean your building after the explosion? If so, which?

Insurance:

Do you have Business Interruption Insurance?

Do you have any other kind of insurance that would cover your losses?

Information:

Would you characterize the information provided to you by Con Edison as prompt and/or useful?

Would you characterize the information provided to you by the city as prompt and/or useful?

What information might you have wanted that you didn't get from either the city or Con

Edison?

Other Comments:

A total of 71 businesses responded to the survey. The New York City Department of Small Business Services has estimated that there are roughly 125 retail businesses in the frozen zone. Congresswoman Maloney tried to obtain surveys from each of the affected businesses. Some businesses were still closed when the survey was conducted, and some businesses declined to participate. The businesses that did participate represent a significant majority of the retail businesses in the immediate vicinity of the explosion.

Businesses were questioned about having business interruption insurance because Con Edison is refusing to reimburse businesses for lost business. Con Edison has previously indicated that business interruption insurance should cover those losses.

Conclusions and Recommendations

In any disaster that requires businesses to close, or that requires major reconstruction work to be done, businesses will experience significant loss of business. As long as Con Edison is not required to cover business loss, the brunt of these losses will fall on the business owners.

Con Edison is clearly providing inadequate and unclear information about what damages it is covering. Even those businesses with physical losses of the sort that Con Edison says it will cover appeared to have little or no information about which losses are reimbursable. The Public Service Commission or other regulatory agencies should require that, when any significant disaster occurs, Con Edison must prepare a clear document outlining the types of losses that they will be covering. The document should be distributed to every affected business and posted on the website.

Con Edison is reportedly limiting its assistance to businesses that were closed for more than 12 hours, despite the fact that street closures and partial building closures caused by the explosion had a significant impact on many businesses. Restaurants, grocery stores, delis and others with perishable goods appear to have experienced the greatest amount of damage, even those that were not closed for long periods of time. Any business that experienced losses as a direct result of the explosion should be compensated.

Many businesses could benefit from the no interest and low interest loans available to them, but few reported having been given any information about what programs might be available to them. The City should have an organized group of people ready to reach out to businesses affected by a disaster. These teams should be able to provide businesses with clear information about reimbursement, loan programs and other assistance that might be available to them. Businesses should not have to wait two weeks or longer to learn that help is available.

In this particular disaster, many businesses are foregoing useful assistance, in part because they are not aware of the assistance available. The City and the utility should expand

their door-to-door and media outreach to encourage business to go to the business reimbursement center at Commerce Bank (317 Madison Avenue) to talk with the representatives to determine whether their losses are reimbursable or if one of the loan programs might be helpful.

Finally, as long as Con Edison refuses to reimburse retailers for business losses, businesses are forced either to self-insure, which means they assume the risk of extraordinary losses such as this, or to carry business interruption insurance. In last year's blackout in Queens and this year's steam pipe explosion, surveys revealed that only about 1/4 of businesses had insurance that covered business interruption. Extended power outages or forced business closures can devastate businesses. Businesses have no ability to minimize their damages since the equipment and repair schedule are entirely in the control of the utility. Greater consideration should be given to requiring utility companies to take responsibility for extraordinary events such as these, rather than forcing individual businesses to take the risk.

This disaster should serve as an impetus for the Public Service Commission to insist that Con Edison must take responsibility for reimbursing businesses for all losses resulting from an extraordinary event such as an extended power outage or an explosion. With an aging system and increasing demand, extraordinary events are becoming commonplace. Businesses should not be asked to bear the burden of Con Edison's failure to invest in upgrading and modernizing its system.

Appendix A

Con Edison Steam Tunnel Explosion 2007 *		
Table 1		
Businesses that...	#	% of total
Lost power	2	3%
Windows blown out	3	4%
Were required to close	60	85%
Closed for more than one day	33	46%
Reported monetary loss	60	85%
Plan to apply for assistance from U.S. Small Business Administration or other government agency	10	14%
Received written information as to what losses are reimbursable	3	4%
Put in a claim with Con Edison for losses resulting from explosion	5	7%
Hired an inspector and/or cleaning crew to inspect and or clean your building after the explosion	6	8%
Have Business Interruption Insurance or other kinds of insurance	23	32%
Characterize information provided by Con Edison and/or City as prompt and/or useful	12	16%

*All numbers out of 71 businesses surveyed

Table 2*	
	#
Average time businesses were required to close	2.4 days
Longest closure of any business (Sophie's Cuban Cuisine)	22 days
Average time of closure for businesses closed more than 1 day**	4.2 days
Average monetary loss per business	\$17,838
Largest monetary loss of any business (Sophie's Cuban Cuisine)**	\$400,000
Total monetary loss of all businesses surveyed	\$1,266,550

*All numbers out of 71 businesses surveyed

**Sophie's Cuban Cuisine, located at 369 Lexington Avenue, as of August 8th 2007, has yet to reopen. Since the business remains closed, the losses continue to mount.