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**ECONOMIC AND INFRASTRUCTURE
IMPLICATIONS OF SEPTEMBER 11**
2002 Warren M. Anderson Legislative Breakfast Seminar Series

FEBRUARY 12, 2002



80 New Scotland Avenue
Albany, NY 12208
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Con Edison Company of New York, Inc.

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Greenberg Traurig, LLP

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WARREN M. ANDERSON

Warren M. Anderson is a distinguished alumnus of Albany Law School and an active member of the Government Law Center Advisory Board. Having served in the New York State Senate for thirty-five years, he is perhaps best known for his leadership during his tenure as President Pro Tem and Majority Leader from 1973 to 1988.

Warren Anderson began his legal career as an Assistant County Attorney in Broome. He then joined the law firm of Hinman, Howard & Kattell where he is currently practicing law. Throughout his career he has received numerous honors and awards.

PROGRAM DESCRIPTION

In furtherance of its mission to serve as a resource to all levels of government in the resolution of specific problems, the Government Law Center is pleased to present the seventh annual Warren M. Anderson Breakfast Seminar Series. Monthly breakfast programs feature experts addressing the legal aspects of a variety of policy issues pending before the Legislature. The seminars are designed to provide access to current legal information on a given topic. The Government Law Center welcomes your suggestions for future programs.

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ECONOMIC AND INFRASTRUCTURE IMPLICATIONS OF SEPTEMBER 11

February 12, 2002

PANELIST

JOHN MIKSAD

Chief Distribution Engineer

Con Edison Company of New York, Inc.

In Manhattan we have what are called networks which are underground grids that provide a highly reliable source of energy to New York City. Networks are supplied from substations. Two substations were actually located in the World Trade Center complex and were destroyed when the buildings fell. The two stations, World Trade Center 1 and World Trade Center 2, were on the ground floor of 7 WTC. We also have gas in Manhattan, primarily a low pressure system with the exception of Battery Park City which is a high pressure system. There's an extensive steam system, the largest in the world, that services the needs of about 350 customers in downtown Manhattan. At about 8:45 a.m. on September 11 the first plane hit the tower. The second plane hit the second tower at 9:03. The south part of our headquarters building actually faced the WTC, so the folks not directly involved in the restoration effort actually watched this unfold from their offices. It was essentially hell on earth down there. I've been to ground zero about a dozen times and it will be with me forever.

We are very often one of the first to respond to events like this. When the first two towers came down, our system was affected – all three commodities: gas, electric and steam. The building at 7 WTC, which happens to house the command post for the Mayor's Office for Emergency Management, caught on fire. It also houses our two substations that are capable of supplying about 450 megawatts of capacity, enough to supply the City of Albany. The building was on fire for most of the day and at about 5:30 p.m. it collapsed, crushing our two substations on the ground floor. The Trade Center 1 and 2 substations were destroyed when building 7 came down. There was a

third substation that was shut down because it shared the supply with Trade Centers 1 and 2. The supply feeders were crushed when the building fell, so that station was out now also. The Fulton network was out as well so we had 5 of the 6 networks in downtown Manhattan out of service, which is significant. In addition, the Stock Exchange was down. We immediately set up our Corporate Emergency Response Team. It's a system that's used throughout the military and government agencies and it's the command and control structure that brings in the support that's required for an event like this. We hadn't experienced anything similar since the '77 blackout.

We also set up a mobile command post out in the field. A three pronged restoration plan was established. It consisted of restoring this eastern substation because the only thing that was damaged were the feeders that supply it and then cross over to the Trade Center complex. We cut the damaged portion of the feeders to restore that eastern station and the Fulton network. The second part of the plan was to bypass the two destroyed stations and run essentially what amounts to 13 thousand volt extension cords over the ground. The third prong of restoration was mobile generation. Liquid nitrogen trucks were rolled in under the elevated portion of the FDR drive. The pipes and supply feeders were all filled with oil. We needed the liquid nitrogen to freeze the oil so that when we cut the damaged section of the pipes away, the oil didn't leak out and we were able to work on it. Approximately two inches of ice coated the pipes to enable the crew to open them up. At about 3 o'clock in the morning on September 17 we restored supply to the revived eastern substation, and reinstated the Fulton network. Remarkably, it was in time for the New York Stock Exchange to open on Monday morning. We wanted to get the economy up and running to show that we hadn't succumbed to the terrorists, and that we had rebounded even under these extremely difficult circumstances.

The second part of the plan, as I mentioned, was to run extension cords north to south to re-establish the remainder of the networks. A total of 36 miles of extension cords! The WTC network itself was destroyed because there was nothing left of the building – there was no local supply. But, the remaining three networks could be restored. Essentially we took the northern substations that remained intact and re-routed their supply downtown. We put all of our eggs in this one basket, so to speak, which is okay on a temporary basis, but not on a permanent basis. We boxed in the extension cords and then barricaded them, serving as barriers on the road side with barriers on the pedestrian side to protect the public and our equipment.

The third part of the restoration was generation. Each mobile generator is good

for about 1-1/2 megawatts. We had 135 of these units in downtown Manhattan. In total, we had about 100 megawatts: a small power plant on wheels. We brought the units in from all parts of the country, and then continually maintained and re-fueled them throughout the week after the event. We dispatched 14 fuel trucks and about 600 thousand gallons of diesel fuel over that next week. As I said, that's okay for temporary restoration, but not for permanent restoration. The plan for this coming summer is to build a second station. We have begun the process already. Typically, this takes between 18-24 months. However, we're going to do it in 8 months to get it up and running by May 1, and then transfer those networks that are on that temporary supply over to the permanent station.

This is what's involved in permanent restoration. If that initial restoration was a sprint, this is now a marathon. We now have an estimated 8 miles of trench, 280 thousand feet of conduit, and 700 thousand feet of cable. We're actually reconstructing Rector Street entirely – water, gas, electric, and telecommunications. Rector Street looked like a big trench. We will then have to remove those 36 miles of cable. By our schedule, everything is to be completed by May 1 of this year, in time for the summer.

The conditions under which we are building the station are very tough. It's tight down there because the streets are extremely narrow. Essentially the equipment is dropped on the side and then craned into the building. We had to break a hole on one side of the substation to be able to install the equipment. An attractive mural on the side was damaged in the process, but we'll restore it after we're done.

The summer 2003 final plan is to have two stations on the East side and a new World Trade Center substation. Silverstein, the long-term lease holder of 7 WTC, has cleared that site completely: there is no debris and it's clean right down to the foundation. As soon as they come up with their design they're going to move ahead with a new 7 WTC. That will be the first building reconstructed.

Thank you.

QUESTION AND ANSWER SESSION

Following Presentation by John Miksad

Q: I read somewhere that Silverstein is one of the people who thinks that Greenwich Street should be reconnected and he alluded to ConEd's role in something like that. Can you comment?

A: I know we've been going back and forth with the design of the building. He wants to do something different with his entry way and with the substation on the ground floor that makes it a little difficult for design purposes. I have not heard anything about Greenwich Street. Once we're done, we'll have essentially restored and replaced the passage that we lost and the required 450 megawatt capacity. With that, we'll be back to where we were prior to September 11.

Q: On Rector Street and others, how's the coordination working between the City and the gas lines?

A: Probably better than ever. If it could be like this all the time it would be great. We have regular weekly meetings where all the parties are getting together, talking, planning and coordinating. In the case of Rector Street, we actually took on project management and are overseeing all of it. We think that's working out really well. Overall I give everyone very high marks for coordination. We're focused and will make it work.

Q: What if we have another summer like we did last summer with record heat?

A: If we complete this station, which we plan to do by May 1, we will have enough power for downtown Manhattan, no question.

Q: You mentioned that the coordination has significantly improved. How is that different from an ordinary street-wide public works contract, and are there any lessons out of this experience from which we could learn?

A: The major lesson is communication and coordination. Typically, the various

agencies focus on their own concerns, and when they're ready they send their planning models to the City and ask for a permit. Everything is basically handled on a case by case basis. It works well when you have all the parties – water, communication, gas, electric, steam, and the roadway – all together in the same room saying, “Here’s what we’ve got to do.” It’s much more coordinated and efficient. It’s not perfect, but it is so much better. The other big difference is the turnaround time. Everything is done on an expedited basis right now. There are no delays to do this work. Thus, the keys are coordination and planning up front, and then expedited execution.

PANELIST

ROBERT M. HARDING, ESQ.

Shareholder

Greenberg Traurig, LLP

September 11 has resulted in the immediate loss of 16 million square feet of commercial and retail property. There were two things obviously happening at the same time. When September 11 hit, the nation was starting to go into a recession. New York City historically comes into an economic boom at the end and goes into a recession first. What we were seeing in the last economic cycle was that NYC was leading the economic recovery and was trailing the rest of the nation as far as entering a recession. In the last fiscal year, NYC for the second year in a row outpaced the State and outpaced the nation in job growth.

We were doing something that the City had never done before: identifying the new jobs of the next decade, or the next century as the case may be, and doing everything we could to entice and recruit those jobs. In the mid- and late-nineties those firms were the dot coms. The common thread with the dot coms is they were all way over-capitalized. They had a lot of money, and the people managing them were very young and very inexperienced, and they wanted to be in the center of business. They wanted to be in lower Manhattan at that prestigious address. Developers and landlords in lower Manhattan were throwing rents to these dot coms that were ridiculous -- \$60 to \$65 a square foot! The dot coms signed on the dotted line. As a result, they were artificially inflating the square foot value of rents in lower Manhattan. As the recession began, the commercial tenants, the anchor tenants, the tenants who are in the City of New York regardless of good times or bad were starting to say, "This is ridiculous; I'm not going to pay these high rent costs." They were moving either outside of the lower Manhattan corridor or outside of the Midtown corridor, and some were actually looking outside the City of New York. At that time, just on the eve of September 11, the City was working with the development community to try to offer up additional incentives to City and State costs to keep these companies here. This was happening at the same time as the decline of the dot coms, and when the NASDAQ were starting to slip dramatically. So the City was at a precipice right before September 11 where the large

commercial Class A office space users of lower Manhattan were re-thinking and re-visiting life there.

Then came September 11. The first order of business (please understand I'm speaking of the first order of business as it relates exclusively to economic development) was to develop as fast as humanly possible an economic incentive plan for businesses to stay or to come into lower Manhattan. Within a week of September 11, the City and State met with the leaders of the business community of New York City, New York City Partnership, and the Real Estate Board of New York to frame and fashion an economic development plan that would be enough of an incentive for the businesses to come back to or stay in lower Manhattan.

What we worked out in broad strokes was the following plan with two goals. We obviously had to rebuild lower Manhattan structurally, so we had to entice developers and businesses by providing incentives. As a side bar to this, because we also had such a large concentrated amount of space that was the WTC complex, the rents at the trade center were artificially low as compared to the rest of lower Manhattan and certainly as compared to Midtown Manhattan. The average rent of a tenant at the WTC was about \$35 a square foot. If you were outside the Trade Center corridor, that rent was probably \$10 a square foot more and if you started to get into Midtown, the rent was more like \$15 to \$20 a square foot more. With this in mind, first we allowed the real estate developers the opportunity to finance projects with tax exempt financing, something that had never been allowed before, something that historically is only done by the federal government. State and City housing agencies also use what's called volume cap where the federal government allows people tax exempt financing for low to moderate income housing. We wanted the federal government to allow us to do triple tax exempt financing for commercial development within a specified corridor of Manhattan. This would accomplish two goals. It would lower the cost of financing which means the developer could pass on the savings as lower rent and the developer wouldn't need to pre-lease the same amount of office space as would be necessary when financing with taxable debt. The rule of thumb in NYC is that a developer will not begin the process of financing and developing a large property unless he or she has a flagship tenant or flagship tenants representing about 50% of the square footage of the building. So, if you're going to build a million square foot office building in the City of New York, you are not going to do anything unless you've identified a tenant or tenants who are committed to 600,000 square feet. That is considered speculative construction in NYC. Outside of the City and in other cities and communities in the State of New

York, it is not uncommon for an entire office building to be built on speculation. Go across the River into Jersey City and Hoboken where they build commercial buildings and plazas on speculation. They build a whole office building on speculation with no tenant in their pocket yet, and they will then rent. New York City developers cannot afford that because of the high cost of construction, financing, and services.

So, the first thing was to allow triple tax exempt financing which only the federal government can authorize. The second thing was to give an award to the businesses to entice them to come back to the City. We proposed a sum of ten thousand dollars in cash per employee. No tax credit, simply a check. For that, they were asked to make a commitment to either stay in lower Manhattan or to come into lower Manhattan for a period of time. The minimum could be, for example, five years. I think 100,000 jobs lost is probably a reasonable number to use. Of the companies that left, it's difficult to tell how many plan on coming back. But if you do the math – 100,000 jobs times \$10,000 – you're talking about an incentive package of \$1 billion.

At the time, we told the federal government we needed about \$700 million dollars. The federal government authorized \$2 billion in triple tax exempt financing, and has authorized \$700 million to the State of New York which the State will then parcel out as it sees fit to landlords and businesses as incentives to either stay in or come to lower Manhattan.

The State has recently announced the arrival of the first installment of the federal money, and has earmarked it into two categories. One is for the small and medium sized businesses: shoe-shine stores, pizzerias, small restaurants and so on. The other category is the larger businesses. It is hoped that when the program is fully developed it will be enough of an incentive to start bringing business back.

There are, however, two more concerns that will have to be addressed in the post-9/11 era. The first concern is security. In the middle part of December, the Chairman of the Board of American Express, Ken Schanualt, said that he was leaving the World Financial Center which was built as part of the tail edge of the Battery Park complex. It is a wonderful facility that had 100% occupancy with American Express as the flagship tenant. Schanualt said he was leaving downtown Manhattan for midtown and that he was moving some of his employees to other complexes in the Northeast region including New Jersey and Westchester. To keep American Express downtown, Mayor Giuliani and Mayor-Elect Bloomberg met with Schanualt as well as the current and incoming police commissioners and their economic development representatives for a marathon session. An agreement was made between Giuliani, Schanualt and

Bloomberg, ratified by the incoming Mayor, about certain security measures that would exist at the World Financial Center that provided the Chairman of American Express with enough comfort that he sent an e0mai to all his employees that afternoon saying he was pleased to announce that they would be returning to lower Manhattan.

Security has now become an issue that the City has to negotiate in addition to all the economic development packages that would be negotiated pre-September 11. You can sit down with Lehman, Morgan or anybody else and create a wonderful incentive package. The Chairman or CEOs of those companies will tell you they are confident they can recoup any losses, and the rents are going to be within reason, and so on. Then they will end that conversation and say, "Now I need to have a security conversation because my employees are not coming back unless I am able to tell them point blank that they are going to be safe and there is going to be restrictions about traffic, water access, etc."

The third concern is something I'm not sure the City or State is in a position to handle right now. It is the notion that, as a result of September 11, the business community is going to keep redundant facilities away from their main base. The businesses realize that they have centralized their offices to such a degree that they are all on the same power grid and phone grid. If a certain grid is destroyed, there is no redundancy because the redundant operation is only four blocks away and that has been lost, too. Companies are willing to stay to the extent there's an economic development package and assurances there will be traffic restrictions. But, businesses still will want to move some of the operation away in the event of another attack. This is where some conflict may arise between the City and State. The trick at least from the City's perspective is to keep that "away facility" within the five boroughs because, obviously, the City is so large that if you do entice a company to stay or come back into lower Manhattan that doesn't mean they can't have a redundant facility in one of the other boroughs in the City. If there is enough distance, the power grids and phone lines will be different.

The State and City now have negotiated an arrangement where they get the #20 billion in addition to the \$5 billion relief package. The one piece that is a bit puzzling to me is the notion that \$20 billion dollars has to be delivered to the City now. The money is going to be used for two separate and distinct purposes. The first is, obviously, to reimburse the City and to reimburse the State for the out of pocket expenses it has incurred as a consequence of September 11. The last time I checked, right before the end of 2001, the City of New York was spending \$30 million on uniform overtime. If you

multiply that by 50 weeks per year it comes to over \$1.5 billion. In addition, you now see something that you've never seen in the City of New York before: State Troopers. The State is incurring additional expenses to house these individuals. The cleanup costs are going to run hundreds of millions of dollars.

These costs will be reimbursed by the federal government, but not all those costs occur immediately. There aren't \$20 billion worth of bills or programs that exist yet for the government to hand out, so I don't know what the government would do with the money, but put it in treasury bills, or invest it in another way. Right now, the turnaround time from the City submitting a bill to the federal government reimbursing it is 6 days. That has not changed from the first time that the City has submitted a voucher to the Federal Emergency Management Association until the last time that I looked at the end of last year.

Thank you.

QUESTION AND ANSWER SESSION

Following Presentation by Robert M. Harding, Esq.

Q: You mentioned the reimbursement for construction. Will there be reimbursement to ConEdison for their out of pocket costs?

A: Not yet, but we're hoping. Some of those costs will probably dovetail with government costs. The ConEd clean-up costs will come out of the normal clean-up costs budget. The redevelopment of the existing facilities is probably something that would have to be done either directly with ConEd and the government or through an incentive package.

Q: You mentioned redundant facilities in other boroughs. Where do you see most of these facilities locating.

A: To any of the boroughs. Frankly, with the exception of Metro-tech in Brooklyn and a few facilities just beginning in Queens, you don't really have a center of commerce that would be the target of a terrorist attack. There's a lot of commercial property that's available in the four boroughs for development as a redundant facility. The point of a redundant facility is that even if one facility is a target for terrorist attack, the other one would survive and vice versa. There's plenty of property available.

I'm not involved in negotiation anymore so I don't feel as comfortable talking about it, but we've already had conversations with a large flagship business in lower Manhattan about putting a redundant facility in one of the other boroughs as a condition of getting some incentives from the City. The City might have to start tying benefits in lower Manhattan with the condition that the redundant facility stay within the five boroughs.

Q: What's the commercial vacancy rate in Manhattan now versus pre-September 11?

A: The commercial vacancy rate in lower Manhattan in 1994 was 15%. At the City's urging, the Legislature passed the "Lower Manhattan Revitalization Act" in 1995 or 1996, creating a whole new incentive package specifically targeted to lower Manhattan. Tax credits, electric utility breaks, and other enticements were all part of an incentive

package that, coupled with a booming economy (let's not forget that), dropped the vacancy rate to below 5% for the next four or five years. Approximately the last four months before September 11 marked the coming of the recession. The dot coms were going under left and right, and the number of vacancies was probably creeping up toward 10%.

Frankly, I don't think there's a need to rebuild every square foot of commercial property lost in Manhattan. Regardless of what the final outcome is for the construction of a temporary or a permanent memorial, I think everyone will agree that nobody will build two 110-story office buildings. There may not be enough property in lower Manhattan to rebuild 20 million square feet if you're going to put up 50-story buildings instead of 110-story buildings, but, again, I don't think we're going to need that much. It's an opportunity to build a lesser amount of square footage, but what are called "smart buildings" ready for the 21st century.