

Power Business Interruption – How Accommodating Is Your Cover?

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How Accommodating Is Your Cover?

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How Accommodating Is Your Cover?

- Experience of actual claims can reveal issues not previously considered or contemplated. These can assist when deciding what areas of coverage are required and to what level.
- The following are a few practical examples of matters that have arisen in a business interruption context in the past and which may aid purchasers when determining cover required and/or confronting claims issues.

Business Interruption Scenarios

1. Minimum gas take liability
2. Additional increased cost of working
3. Carbon credits as a saving
4. Proximate cause

1. Minimum Gas Take Liability

Brief Facts of the Case

- Failure in a two module CCGT facility operating under a PPA to provide availability
- Cause was established as an electrical issue on slip ring of generator
- Temporary repairs completed whilst new unit manufactured
- A 62 day outage ensued leading up to completion of temporary repairs
- New unit installed during scheduled outage

Minimum Gas Take Liability

Policy Cover

- The cover provided for, inter alia:-
- In respect of gas payments, any amount the Insured is obligated to pay as gas payments and which is applicable to the Indemnity Period.

Minimum Gas Take Liability

The Issues

- Cover is designed to protect against failure to meet MGTL following an insured event
- The terms of the PPA provided for carry forward gas relief
- Claw-back by Insurers following the event reduced the potential liability of £18m to nil.
- This left the station exposed to an uninsured event for the remainder of the operating year and beyond
- Insurers had taken all of the credit

2. Additional Increased Cost of Working

Notional Background Information

- Failure in a CCGT facility. Revenue is derived from a combination of availability payments and merchant income.
- Failure related to a generator problem
- Two outages following initial temporary repairs and subsequent installation of new unit
- Merchant element of revenue affected due to forward positions being sold

Additional Increased Cost of Working Policy Cover

- Typically, cover can be provided under the business interruption section of the policy for AICW with the following:-
- Additional expense necessarily incurred for the purpose of resuming or maintaining normal business operations. Various limits apply.

Additional Increased Cost of Working

The Issues

- Designed to cover the additional uneconomic expense incurred to maintain normal operations
- Claim related to the cost of buying out of previous forward commitments
- Typically, the cover will be constrained in 3 ways:-
 - Monetary Limit per Mwh
 - Time limit applicable from date of loss
 - Overall cap

3. Carbon Credits As a Saving

- ETS found in EU territory
- Non-generation following an insured outage will produce a saving in the purchase of carbon or the ability to sell excess accumulated carbon credits
- A well understood notion in some territories and not in others
- Value of carbon as a saving often contentious
- Are savings in carbon taken into account when establishing insured values?

4. Proximate Cause

A Debatable Issue?

- Negligence by repair contractor extends interruption period – value £10m. Is this a new and intervening event?
- Repaired equipment in transit from mainland Europe sinks in a storm in the English Channel. Is this a new and intervening event?

Questions

Thank you for your time.

Questions?