A Guide to Business Interruption Insurance for the Energy Industry

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When a company incurs financial loss due to an interruption of its business, it should look to its property policy to provide coverage for all or a portion of the loss. The aim of this article is to give an overview of business interruption coverage from authors with decades of experience representing insureds in the energy sector who face property loss and business interruption issues.

Business interruption coverage issues arise when the company is purchased, enters into transactions with third parties and when it sustains an interruption of its business operations because of damage to property.

Key Issues at Point of Purchase

Like all insurance policies, a property policy that includes coverage for business interruption loss is simply a risk-transfer contract from the purchaser (the insured) to the insurance company (the insurer). Therefore, our starting point is: What risks does the company wish to transfer to its insurance company and does the policy language in fact transfer those risks?

A. Named Perils vs. All-Risk Coverage

First-party property/business interruption coverages are generally written in two different ways: named perils or all-risk. Under a named perils policy, the policy sets forth specific perils that are covered. If the cause of loss is not included in one of those enumerated perils, there is likely no coverage unless another part of the policy can be triggered. Under a named perils policy, the company has the burden of proof to establish that the cause of the loss was a named peril.

In contrast, an all-risk policy covers all perils except for any perils that are specifically excluded. Therefore, with an all-risk policy, the company need only establish that physical damage (or the other requirements necessary to trigger a loss) occurred and the loss was not caused by an excluded peril. The insurer then bears the burden of proof to establish that the cause of loss was excluded under the policy.

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