Browne Jacobson

A blow to manufacturers as Thai Court confirms insurers' denial of cover in wind turbine case

26 January 2024

A decision from a Thai Court in Bangkok provides a potential shift in the renewable energy insurance sector, as manufacturers are held to a higher standard than usual 'industry practice'.

Summary of the case facts

In 2018 a wind turbine nacelle fell from a turbine in Thailand after the bolts connecting it and the blade to the tower loosened and fell out, with the strain on remaining bolts becoming too much to hold it. Fortunately, nobody was injured.

Upon investigation it was found that the subcontractor did not tighten the bolts to the required torque, which lead to their loosening as the turbine moved out. It was also discovered that an employee had turned off alarms and completed turbine resets without completing any inspections, which could have bought the issue to light and prevented the loss.

As this occurred within the defects liability period, there was a contractual obligation on the manufacturer of the turbine to repair the damage, for which they sought reimbursement from their insurers. However, in light of the findings surrounding the subcontractor and employee, the insurers denied the claim citing various policy exclusions, including those relating to gross negligence.

What does the decision mean for the renewable energy insurance sector?

In what has been described as a major decision from the Thai Court, it was determined that whilst the manufacturer and contractor adhered to 'industry practice' this was not enough to overcome the evidence of gross negligence presented. The Court found that whilst it was the actions of the subcontractor that were responsible for the loose bolts, the main contractor (which is a subsidiary of the manufacturer) did not take sufficient steps to ensure that the work was properly completed.

The Court therefore held that the insurers were entitled to deny cover and the claim was dismissed.

The decision reinforces the need for manufacturers and contractors to take steps to ensure work completed by subcontractors is executed correctly, as failures to do so could result in a denial of coverage from insurers.

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