

Ice Storm 1998

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Following the ice storm which affected Quebec and parts of eastern Ontario, insurance companies have raised a number of questions directed to the reinsurance community. Reinsurance claims and underwriting personnel, in an effort to address these inquiries, reviewed contract principles, practice and intent underlying catastrophe reinsurance and the treaty hours clause. It is hoped that their conclusions, expressed below, will help answer the most frequently asked questions.

1. The commonly used Hours Clause appearing in treaty wordings limits occurrences such as the ice storm to a single 168-hour period. The ceding company is free to choose when that period starts, but must realize that losses *arising as a result of the event continuing beyond 168 hours* would fall outside the catastrophe treaty's Ultimate Net Loss. The 168-hour period cannot be followed by a second 168-hour period in the case of a single event.
2. It is generally held that the Proximate Cause will determine which losses should be allocated to the Ultimate Net Loss of a catastrophe treaty. That is to say, there should be a direct linkage between the ice storm and the loss. This linkage is more important than whether or not the claimed loss happened during the 168-hour period or in the days following the event. The following examples should help to illustrate the principle of Proximate Cause:

Collision and Auto Damage: Auto collisions that occurred during the ice storm resulted from driver error (inasmuch as drivers did not compensate for icy conditions) and should not be included in the ice storm claim. Vehicles damaged by falling branches due to the weight of ice could be aggregated for claim purposes.

Burglary and Theft: Burglaries and thefts that occur during or following the 168 hours are individual events and should not form a part of a catastrophe claim. The Proximate Cause of these losses was not the ice storm.

Fire Losses: Example - An insured lights a candle due to the power outage and the candle sets fire to the curtains, causing fire damage. While the loss is covered under the homeowner policy, it should not be accumulated with the ice storm losses. The careless action of the homeowner and not the ice storm was the Proximate Cause of the loss. In the case of fires caused by generators, whether these fire losses happened during the 168 hours or after, they would be covered as a statutory fire loss but should not be included under the ice storm loss. Again, the Proximate Cause of the loss was perhaps a spark or overheated generator, and not the ice storm.

Using the theory of Proximate Cause, not all fires would be excluded. The return of electricity may have started a breaker panel fire or a fire due to appliances left on during evacuation. In some cases, these may be considered a part of the 168-hour loss.

Generator Costs: Costs of purchasing or renting a generator would not ordinarily be covered as part of the ice storm. They were purchased to allow the house to remain habitable and to prevent loss to the building, i.e., frozen pipes; however, this is more a preventative measure than mitigation after a loss. As such, this extra cost is not normally covered.

Water Damage to House (either from burst pipe or leaking roofs): It was felt that even if the loss or damage manifested itself after the 168 hours, it should be covered if the Proximate Cause was the ice storm, and therefore would form part of the catastrophe loss. It is expected that claims investigation will be conducted by the insurer to establish the Proximate Cause.

Costs for Removal of Ice and Snow from Roofs: If no damage has occurred to a building, it is viewed that the removal of ice and snow from a roof is strictly normal maintenance or risk reduction and not anything unusual that should be covered by an insurance policy. In normal winters it is not unheard of for people to get up on their roofs to remove some of the snow when it gets heavy. However, if removal of ice and snow after a loss occurred was to mitigate the loss, this would indeed be covered.

Ex-Gratia Payments: Ex-gratia payments are not covered by a typical catastrophe reinsurance agreement.

Conclusion

In reporting a catastrophe loss, insurance companies should remember that the 168-hour clause applies in all cases. Due to the difficulty of reporting some of the claims and the manifestation of damage, reinsurers have adopted a more relaxed approach under this specific event by using the Proximate Cause theory as a general guideline, rather than a strictly legalistic approach. It should be remembered that the flexibility as to date in reporting claims after the 168 hours should not extend to covering all winter-related claims or losses. It must be clear that the Proximate Cause was the ice storm. Therefore, insurers are urged to ensure that the maximum amount of information is included with submitted reinsurance claims, indicating the date of loss (as best one can determine) the date reported, location, kind or loss and cause of loss.

Reinsurance agreements may vary as there are no standard wordings. The examples contained herein were developed to provide guidance on the intent and interpretation of catastrophe reinsurance. Each individual reinsurer negotiates and settles its own claims and insurers are encouraged to direct any specific questions to their reinsurer or intermediary for clarification.

We ask that the technical bulletin be circulated to all members of insurers' claims departments to facilitate a full and broader understanding of the treaty intent and the desire of reinsurers to respond fairly and responsibly to this unprecedented loss.