

PRESS RELEASE

Contact: Jessica Yun
Solutions for Our Climate
+82-10-4004-9949
jessica.yun@forourclimate.org
www.forourclimate.org

Solar players sue South Korean government for subsidizing biomass generation

Solar developers and residents near planned biomass projects in South Korea claim biomass generation subsidies are 'unconstitutional', violating environmental and property rights

Seoul, Korea, September 28, 2020 – On Monday, solar developers filed a complaint against the South Korean government claiming its subsidies for biomass generation are unconstitutional. The potentially game-changing legal dispute is the first instance globally in which solar owners have directly challenged biomass subsidies and follows the heels of a 2019 lawsuit against the EU's inclusion of biomass in the Renewable Energy Directive (REDII), which was dismissed by the European Court of Justice in May 2020 based on standing.

The plaintiffs, which include solar cooperatives, solar cooperative members, residents nearby planned biomass plants in the cities of Daegu and Gwangyang, ordinary Korean citizens, and a Canadian citizen argue that the government's support for biomass generation, which is considered "renewable energy" under South Korean law and receives renewable energy certificates (RECs) and subsidies, violates citizens' environmental rights by increasing air pollution and climate damage, in addition to the property rights of renewable project owners, as subsidies for biomass reduce the support available for solar and wind, and thus, anticipated profits.

According to a 2020 [report](#) by Solutions for Our Climate, biomass is one of the most subsidized renewable energy sources in South Korea, and some utilities, aided by Korea's renewable energy policy and the biomass subsidies, have been fulfilling their renewable energy quota almost exclusively through biomass. The capacity of biomass power generation has been increasing since 2012, reaching approximately 1,600 MW in 2020. The electricity generation from woody biomass grew 61 times over a six-year period from 106,023 MWh in 2012 to 6,490,437 MWh in 2018.

The complaint challenges the idea that biomass is carbon neutral and environmentally friendly. South Korea's biomass industry [frequently defends](#) its sustainability using the EU's recognition of biomass generation's carbon neutrality, which considers emissions from the burning of biomass to be equal to the amount of emissions absorbed when trees grow back. However, that process could take [decades](#), according to the National Resources Defense Council. The complaint

also [cites](#) the Intergovernmental Panel on Climate Change, which finds that CO2 emissions per MWh for biomass generation is higher than for coal power. According to data from the Office of National Assembly Member Soyoung Lee, the Yeongdong biomass plant unit 1 in South Korea emits 0.612kg of SOx, NOx, and dust per MWh, and 0.73kg of PM 2.5 per MWh. By contrast, a coal power plant on the country's west coast emits 0.146kg per MWh in SOx, NOx, and dust, and 0.33kg of PM 2.5 per MWh.

The influx of biomass generation is hindering solar power businesses. Between 2014 and 2018, bioenergy generation received nearly 40% of total issued RECs, the highest among renewable energy sources in South Korea. According to the Korea Energy Agency, the spot market price of RECs stood between 100,000 KRW and 170,000 KRW during 2016-2017. In October 2019, the spot market price of RECs fell to 54,000 KRW, and small solar power operators, including the Korea National Solar Photovoltaic Association and the Korea National Association of Solar Photovoltaic Power Operators, have raised their voices on RECs market failure. According to these groups, overcompensation of RECs for the biomass sector has contributed to the excess supply of RECs, in turn, worsening the downward market trends in 2018.

Plaintiff **Susanna Oh, executive director of the Korea Solar Co-op Association**, said: "RECs issued from biomass co-firing consist of around 30% of the total RECs issued. These RECs are impeding renewable development. The promotion of biomass contributed to the downfall of REC prices which is making it more difficult to develop solar power plants. The current biomass subsidy scheme should be reformed to promote investments in solar power." Of RECs issued in 2018, those for biomass generation accounted for roughly a third at 27.4%, while those issued for wind accounted for only 7.3%.

Plaintiff **Haedong Kim, a professor at Keimyung University and director of the Daegu Citizen's Solar Co-op**, which was established by a hundred citizens and has four photovoltaic plants, said: "Units 3 and 4 of the Co-op are suffering badly because of falling REC prices. Even if we assume that the plants do not degrade over the next twenty years, it will be difficult for the projects to financially recover. We believe these changes are mainly attributable to the oversupply of RECs from biomass generation. I decided to participate in this lawsuit to appeal to the government the damages we are experiencing."

There are hopes that the constitutional complaint improves South Korea's air pollution and climate efforts. Plaintiff **Yangguk Baek, secretary-general of the Gwangyang Korean Federation for Environmental Movements**, refers to biomass subsidies as a "blind spot in the law." He said: "Bio-SRF fuel is made of harmful mixtures, which can threaten the health rights of residents. The government should amend its policy to subsidize only clean renewable energy sources through this constitutional request." Referring to the current grandfathering of higher REC multipliers for biomass plants that were only in the pipeline when a June 2018 [revision](#) to REC multipliers was made, he added: "We also have to abolish the incentive (REC weights) deferment provisions applied to large utilities."

The plaintiffs have challenged the Presidential Decree to the Renewable Energy Act, which prescribes that biomass is renewable energy, as well as Schedule 2 of the RPS Operating Guidelines and one of the addendums, which still provide high REC multipliers for biomass plants and grandfather even higher REC multipliers to plants that were merely in the planning process when the most recent amendments to the RPS Operating Guidelines were made.

Joojin Kim, attorney and managing director of Solutions for Our Climate, said: “Rewarding biomass generation both removes important carbon sinks in forests around the world and adds emissions through the combustion process here in Korea. In a climate crisis, this is unacceptable. Subsidies for large-scale biomass generation must end.”

The counsel for the constitutional complaint, **attorney Shinyoung Choo of ELPS Law Offices**, commented, "Biomass generation not only damages forest ecosystems but also does not contribute to the reduction of air pollution of greenhouse gas emissions. Biomass generation subsidies worsen the competitiveness of other genuine renewables like solar PV and wind in the renewable energy market and reduce incentives to invest in solar and wind."

In 2018, South Korea became the third-largest importer of wood pellets after the United Kingdom and Denmark, according to the Food and Agricultural Organization of the UN. The country imports most wood pellets from Vietnam, as well as from Malaysia, Thailand, Indonesia, Russia, and the United States.

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Solutions for Our Climate (SFOC) is an independent policy research and advocacy group that aims to decarbonize Korea's power sector. SFOC's primary mission is to align Korea's power sector emissions trajectory so that it is compatible with the Paris Agreement 1.5°C warming target. SFOC is led by legal, economic, financial and environmental experts with experience in energy and climate policy.

For media inquiries, please contact:

Jessica Yun
Solutions for Our Climate
International Communications Officer
jessica.yun@forourclimate.org
+82-10-4004-9949