

# Overview of Determining Capacity

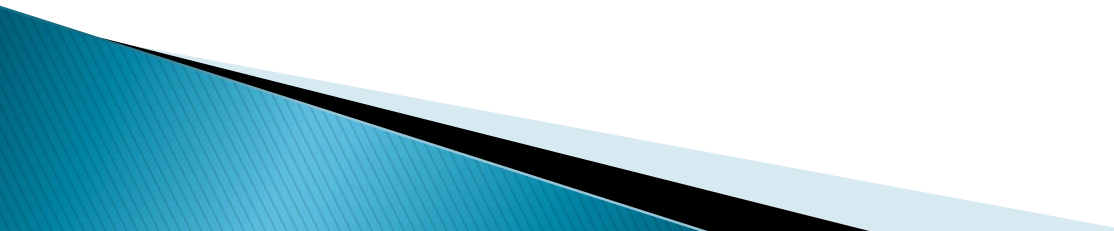
1 Mile Rule of Order 872  
Broadview Solar



Missouri Public Service Commission | Jefferson City, MO

# Disclaimer

The views presented here are my own, and are not necessarily those of the Commission Staff, Staff Counsel, or the Missouri Public Service Commission.



# Existing regulation:

§ 292.204 Criteria for qualifying small power production facilities.

(a) *Size of the facility* –

(1) *Maximum size.* Except as provided in paragraph (a)(4) of this section, the power production capacity of a facility for which qualification is sought, together with the power production capacity of any other small power production qualifying facilities that use the same energy resource, are owned by the same person(s) or its affiliates, and are located at the same site, may not exceed 80 megawatts.

See also 16 U.S.C. § 796(17)(A)(ii).

# Existing regulation:


**(2) *Method of calculation.*** (i)(A) For purposes of this paragraph (a)(2), there is an irrebuttable presumption that affiliated small power production qualifying facilities that use the same energy resource and are located one mile or less from the facility for which qualification or recertification is sought are located at the same site as the facility for which qualification or recertification is sought.

# New regulation in Order 872:

**(B)** For purposes of this paragraph (a)(2), for facilities for which qualification or recertification is filed on or after December 31, 2020 there is an irrebuttable presumption that affiliated small power production qualifying facilities that use the same energy resource and are located 10 miles or more from the facility for which qualification or recertification is sought are located at separate sites from the facility for which qualification or recertification is sought.

# New regulation in Order 872:

(C) For purposes of this paragraph (a)(2), for facilities for which qualification or recertification is filed on or after December 31, 2020, there is a rebuttable presumption that affiliated small power production qualifying facilities that use the same energy resource and are located more than one mile and less than 10 miles from the facility for which qualification or recertification is sought are located at separate sites from the facility for which qualification or recertification is sought.

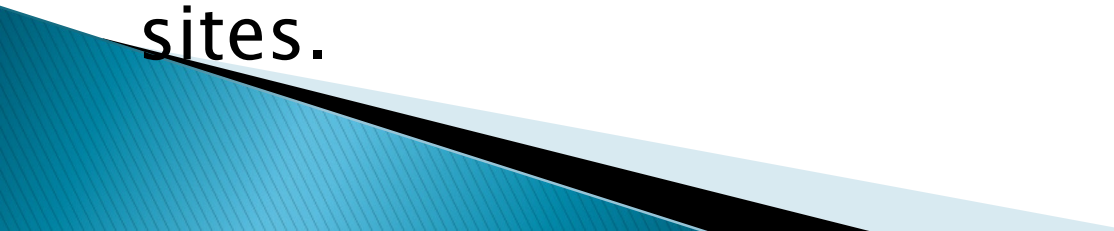


# Status with Order 872:

Affiliated facilities  $\leq 1$  mile apart =  
Irrebuttable presumption that are the same  
site.

Affiliated facilities  $> 1$  but  $< 10$  miles apart =  
Rebuttable presumption that are separate  
sites.

Affiliated facilities  $\geq 10$  miles apart =  
Irrebuttable presumption that are separate  
sites.



# Factors in determining “same site:”

## Physical Characteristics

- Common infrastructure

- Access & easements

- Interconnection agreements

- Collector systems

## Ownership/Other Characteristics

- Common ownership, maintenance

- Selling to same utility

- Constructed by same entity within 12 mos.

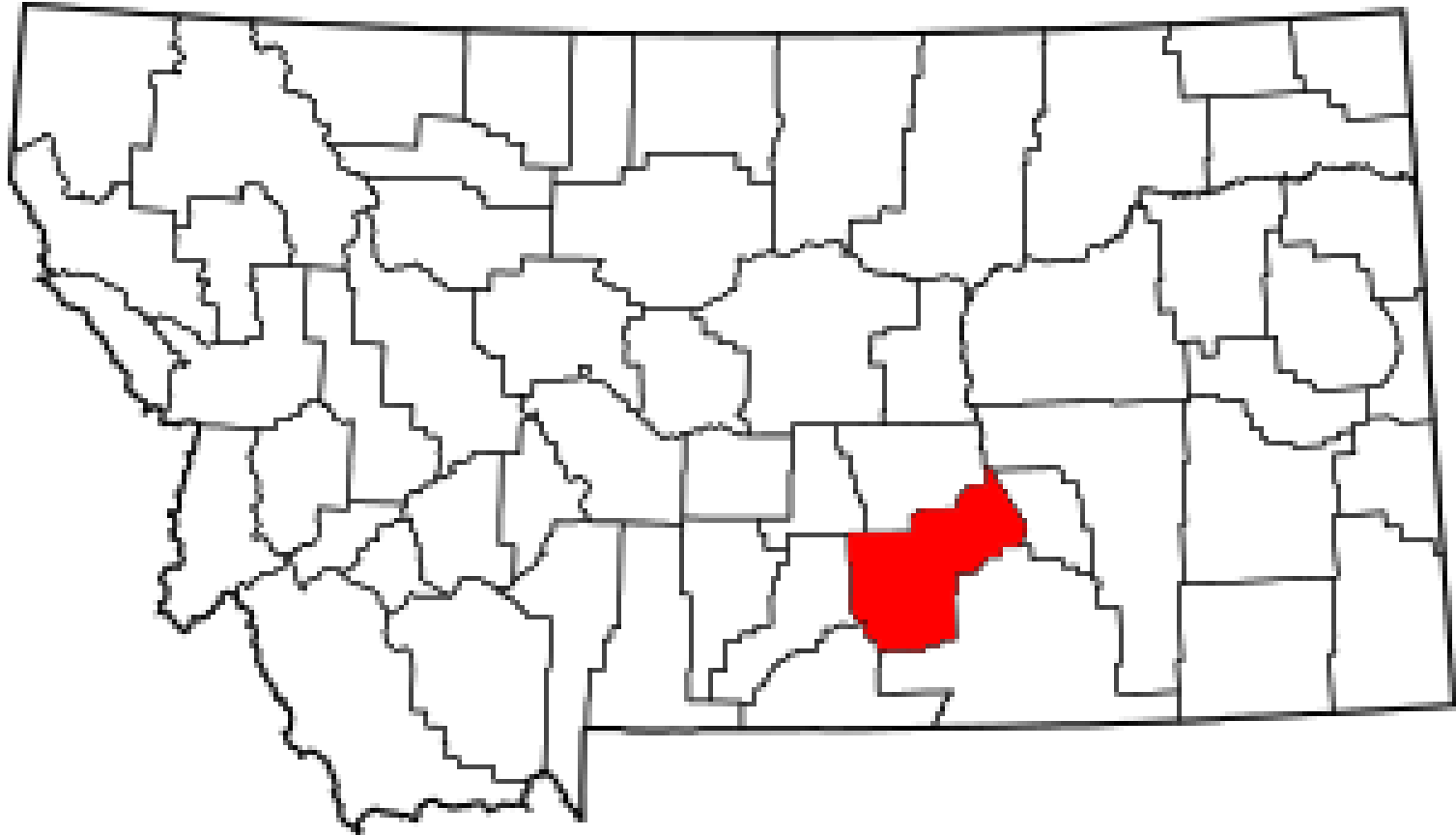
- Shared engineering/procurement contracts



# Waiver provision:

**(3) *Waiver.*** The Commission may modify the application of paragraph (a)(2) of this section, for good cause.

# Broadview Solar:



# *Occidental Geothermal, Inc.*

“[A] facility’s power production capacity is not necessarily determined by the nominal rating of even a key component of the facility. For example, while economy dictates that a large facility be built so that all its components have nearly the same operating limits, thus minimizing the costs of unutilized component capabilities, it is not uncommon for smaller facilities to find it most economic to employ commercially available components some of which have individual capabilities significantly exceeding the overall facility capabilities.”

# *Occidental Geothermal, Inc.*

“The Commission will consider the “power production capacity” of a facility to be the maximum net output of the facility which can be safely and reliably achieved under the most favorable operating conditions likely to occur over a period of several years. The net output of the facility is its send out after subtraction of the power used to operate auxiliary equipment in the facility necessary for power generation (such as pumps, blowers, fuel preparation machinery, and exciters) and for other essential electricity uses in the facility from the gross generator output.”

# Broadview Solar Opposition:

NorthWestern<sup>®</sup>  
Energy

*Delivering a Bright Future*

EEI

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Edison Electric  
INSTITUTE

# *Broadview Solar I, Sept 1, 2020*

“We find that the Commission’s statement in *Occidental* that ‘the power production capacity’ of a facility is ‘the maximum net output of the facility,’ which is ‘its send out,’ is not consistent with the 80 MW ‘power production capacity’ limit expressly specified by the statute and regulations. Re-examining *Occidental* ... we conclude that we have improperly focused on ‘output’ and ‘send out,’ instead of ‘power production capacity,’ which is the standard established both in the statute and in our regulations.”

# Commissioner Glick's dissent:

- All capacity is produced by the solar array.
- Battery storage does not increase power production but does make the facility run more efficiently.
- Broadview's facility is "physically incapable of producing more than 80 MW of electricity for any subsequent use."

# Then...

| Sept 2020 Commission                        | March 2021 Commission                           |
|---|---|
| Chatterjee, Chair                           | Glick, Chair                                    |
| Glick (dissenting, with a separate opinion) | Chatterjee                                      |
| Danly                                       | Danly (dissenting, with a separate opinion)     |
| McNamee                                     | Clements  |
|   | Christie (dissenting, with no separate opinion) |



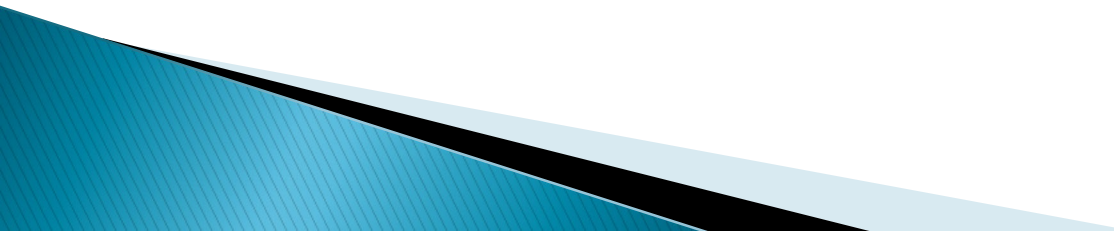
# *Broadview Solar II, March 19, 2021*

“[We further find that it is reasonable to measure power production capacity of a facility like Broadview’s at the point of interconnection because its inverters are an integral part of a solar PV facility’s generation equipment and are necessary to produce power in a form useful to the interconnecting utility. Indeed any solar-PV QF can produce power for delivery to the purchasing utility only to the extent enabled by the inverters because the grid operates predominantly using AC power. ... Because Broadview’s facility – including the PV panels, inverters, and the battery system – can deliver a maximum of 80 MW of power to NorthWestern’s system at any one point in time, the power production capacity of Broadview’s facility cannot and will not exceed 80MW.”

*Broadview Solar, LLC, 174 FERC 61,199 (March 19, 2021).*

# “A common-sense understanding.”

“Today’s order restores a common-sense understanding that QF status should turn on the power production capacity of a facility as a whole, not the capacity of any individual component part, Chair Glick stated. “The primary benefit of QF status afforded under PURPA is the right to sell power to a chosen utility, so the amount of power that a QF can actually transmit to the utility should be the touchstone of our analysis.”



Questions or  
Comments?

