

5/21/09
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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FIRST REGION

MAY 21 2009
RECEIVED

In the Matter of

COVANTA ENERGY CORPORATION, COVANTA
SEMASS LLC and the entities listed in Appendix "A"
attached hereto, Single Employers and/or Joint Employers

and

LOCAL 369, UTILITY WORKERS UNION OF
AMERICA, AFL-CIO

Cases 1-CA-44920
1-CA-45239

**ORDER CONSOLIDATING CASES,
CONSOLIDATED COMPLAINT AND NOTICE OF HEARING**

Local 369, Utility Workers Union of America, AFL-CIO, herein called the Union, has charged in Cases 1-CA-44920 and 1-CA-45239 that Covanta Energy Corporation, herein called Respondent Covanta, Covanta SEMASS LLC, herein called Respondent SEMASS, and the entities listed in Appendix A, attached hereto, and herein called Respondent Subsidiaries, Single Employers and/or Joint Employers and herein collectively called Respondents, have been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. Sec. 151 et seq., herein called the Act. Based thereon, and in order to avoid unnecessary costs or delay, the General Counsel, by the undersigned, pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, **ORDERS** that these cases are consolidated.

These cases having been consolidated, the General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Board's Rules and Regulations, issues this Order Consolidating Cases, Consolidated Complaint and Notice of Hearing and alleges as follows:

1. (a) The charge in Case 1-CA-44920 was filed by the Union on September 4, 2008, and a copy was served by regular mail on Respondent Covanta on September 15, 2008.

(b) The first amended charge in Case 1-CA-44920 was filed by the Union on November 18, 2008, and a copy was served by regular mail on Respondent Covanta and Respondent SEMASS on November 19, 2008.

(c) The second amended charge in Case 1-CA-44920 was filed by the Union on February 4, 2009, and a copy was served by regular mail on Respondent Covanta and Respondent SEMASS on February 4, 2009.

(d) The third amended charge in Case 1-CA-44920 was filed by the Union on February 13, 2009, and a copy was served by regular mail on Respondents on February 19, 2009.

(e) The charge in Case 1-CA-45239 was filed by the Union on March 3, 2009, and a copy was served by regular mail on Respondents on March 4, 2009.

(f) The first amended charge in Case 1-CA-45239 was filed by the Union on April 13, 2009, and a copy was served by regular mail on Respondents on April 15, 2009.

2. (a) At all material times, Respondent Covanta, a corporation with an office and place of business in Fairfield, New Jersey, has been engaged in the management of energy facilities.

(b) At all material times, Respondent SEMASS, a corporation with an office and place of business in West Wareham, Massachusetts, has been engaged in the operation of an energy-from-waste facility.

(c) At all material times, Respondent Subsidiaries, corporations with offices and places of business in the following locations set forth opposite their respective names, have been engaged in the operations of energy facilities:

Michigan Waste Energy, Inc	Detroit, MI
Covanta Montgomery, Inc.	Dickerson, MD

Covanta Fairfax, Inc.	Lorton, VA
Covanta Alexandria/Arlington	Alexandria, VA
Covanta Lancaster, Inc	Bainbridge, PA
Covanta Harrisburg, Inc	Harrisburg, PA
Covanta Delaware Valley L.P.	Chester, PA
Covanta Onondaga, L.P.	Jamesville, NY
Covanta Niagara Company	Niagara Falls, NY
Holliston Transfer Station	Holliston, MA
Braintree Transfer Station	Braintree MA
Covanta Springfield, LLC	Agawam, MA
Covanta Pittsfield, LLC	Pittsfield, MA
Covanta Haverhill, Inc.	Haverhill, MA
Covanta Kent, Inc.	Grand Rapids, MI
Covanta Huntsville, Inc.	Huntsville, AL
Covanta Hillsborough, Inc.	Tampa, FL
Covanta Lake, Inc.	Okahumpka, FL
Covanta Lee, Inc.	Ft. Myers, FL
Covanta Pasco, Inc.	Spring Hill, FL
Covanta WBH	Tulsa, OK
Covanta Hennepin	Minneapolis, MN
Covanta Marion, Inc.	Brooks, OR
Koma Kulshan Hydro Plant	Concrete, WA
Weeks Falls Hydro Plant	North Bend, WA
Covanta Honolulu	Kapolei, HI
Pacific Oroville Power, Inc.	Oroville, CA
Mount Lassen Power	Westwood, CA
Burney Mountain Power	Burney, CA
Covanta Essex Company	Newark, NJ
Covanta Union, Inc.	Rahway, NJ
Covanta Warren	Oxford, NJ
Covanta Indianapolis, Inc.	Indianapolis, IN
Covanta Babylon, Inc.	West Babylon, NY
Covanta Hempstead Company	Westbury, NY
Covanta Huntington, L.P.	East Northport, NY
Covanta Mendota	Mendota, CA
COVANTA Stanislaus, Inc.	Crows Landing, CA
Covanta Bristol, Inc.	Bristol, CT
Covanta Mid-Conn, Inc.	Hartford, CT
Covanta SECONN	Preston, CT
Covanta Wallingford	Wallingford, CT

3. (a) At all material times, Respondent Covanta and both Covanta SEMASS and Respondent Subsidiaries have been affiliated business enterprises with common officers,

ownership, directors, management, and supervision, and have administered a common labor policy.

(b) Based on its operations described above in subparagraph 3(a), Respondent Covanta and both Covanta SEMASS and Covanta Subsidiaries constitute single-integrated business enterprises and single employers within the meaning of the Act.

4. In the alternative,

(a) At all material times, Respondent Covanta has possessed and/or exercised control over the labor relations policy of Respondent SEMASS and Respondent Subsidiaries and has administered a common labor policy with Respondent SEMASS and Respondent Subsidiaries for the employees of Respondent SEMASS and of Respondent Subsidiaries.

(b) At all material times, Respondent Covanta, Respondent SEMASS, and Respondent Subsidiaries have been joint employers of the employees of Respondent SEMASS and Respondent Subsidiaries, respectively.

5. (a) Annually, Respondent Covanta, in conducting its business operations described above in subparagraph 2(a), derives gross revenues in excess of \$500,000.

(b) Annually, Respondent Covanta, in conducting its business operations described above in subparagraph 2(a), purchases and receives goods within the State of New Jersey, valued in excess of \$50,000 directly from points outside of the State of New Jersey.

(c) Annually, Respondent SEMASS, in conducting its business operations described above in subparagraph 2(b), derives gross revenues in excess of \$500,000.

(d) Annually, Respondent Covanta, in conducting its business operations described above in subparagraph 2(b), purchases and receives goods within the Commonwealth of

Massachusetts, valued in excess of \$50,000 directly from points outside of the Commonwealth of Massachusetts.

(e) Annually, Respondent Subsidiaries, in conducting their business operations described above in subparagraph 2(c), individually derive gross revenues in excess of \$500,000 each.

(f) Annually, Respondent Subsidiaries, in conducting their business operations described above in subparagraph 2(c), individually purchase and receive goods at their respective locations, valued in excess of \$50,000 directly from points outside of the respective states or commonwealths in which they operate.

6. (a) At all material times, Respondent Covanta has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

(b) At all material times, Respondent SEMASS has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

(c) At all material times, Respondent Subsidiaries have each been employers engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

7. At all material times, Anthony J. Orlando held the position of Respondent Covanta's President and Chief Executive Officer, and has been a supervisor of Respondent Covanta within the meaning of Section 2(11) of the Act and an agent of Respondent Covanta within the meaning of Section 2(13) of the Act.

8. At all material times prior to September 15, 2008, Respondent Covanta, Respondent SEMASS, and Respondent Subsidiaries have maintained an Employee Handbook with the following provisions:

(a) "The solicitation of memberships or pledges, collections of funds, circulation of petitions, distribution of any printed materials,

- trespass, and any other similar types of activities by employees, on behalf of any organization, group, society, or individual, is not permitted at any time on Company property nor on Company time outside the property. Distribution of non-Company authorized material, handbills, printed or written literature of any kind is prohibited." [Section VII – General Practices, No Solicitation/No Distribution]
- (b) "Employees...should report incidents/complaints promptly to their supervisor or their supervisor's manager." [Section II – Employee Relations, Open Door Policy/"Speak Out"/"The Network", 1st bullet point]
- (c) "Note: Employees who suspect a supervisor or manager of misconduct... should bypass these individuals and report the incident to a higher level of management." [Section II – Employee Relations, Open Door Policy/"Speak Out"/"The Network", 1st bullet point]
- (d) "Disruptive behavior, including causing, creating or participating in a disruption of any kind during working hours" may result in discipline/termination. [Section II - Employee Relations, Code of Conduct, 11th bullet point]
- (e) "Failure to obtain permission to leave work for any reason during normal working hours" may result in discipline/termination. [Section II - Employee Relations, Code of Conduct, 18th bullet point]
- (f) "Any gross misconduct that has an adverse effect on production or the work environment or the reputation of the Company" may result in discipline/termination. [Section II - Employee Relations, Code of Conduct, 29th bullet point]
- (g) "Before information is provided to...[any] other person (e.g., external attorney, investigator, competitor), the employee must immediately notify the employee's supervisor, manager, or department head and must not provide any information or conduct any discussions unless specifically authorized to do so." [Section VII – General Practices, Contacts with Outside Representatives]
- (h) "Clothing should be free of ... political slogans...." [Section VII – General Practices, Personal Appearance]
- (i) "Company information deemed confidential includes... personnel and payroll records regarding current and former employees, salaries, wages, and other forms of compensation...." [Section VII – General Practices, Confidentiality of Company Information]
- (j) "Therefore, all full-time, non-bargaining, non-exempt employees are eligible to participate in the Company's Attendance Bonus Program." [Section V – Time Off/Leaves, Attendance, Attendance Bonus Program]

9. From about September 15, 2008 to in or about January 2009, Respondent Covanta, Respondent SEMASS and Respondent Subsidiaries maintained in the Employee Handbook the following provisions:

- (a) "While distribution of literature is permitted in non-work areas during non-working time, in order to reduce litter, custodial workloads, and to maintain the premises in a clean and orderly condition, employee [sic] are prohibited from leaving multiple copies or stacks of literature or other written materials in non-work areas in lieu of direct distribution." [Section VII – General Practices, Bulletin Boards, Solicitation & Distribution of Literature Policy]
- (b) "Employees...should report incidents/complaints promptly to their supervisor or their supervisor's manager." [Section II – Employee Relations, Open Door Policy/"Speak Out"/"The Network", 1st bullet point]
- (c) "Note: Employees who suspect a supervisor or manager of misconduct... should bypass these individuals and report the incident to a higher level of management." [Section II – Employee Relations, Open Door Policy/"Speak Out"/"The Network", 1st bullet point]
- (d) "Disruptive behavior, including causing, creating or participating in a disruption of any kind during working hours" may result in discipline/termination. [Section II - Employee Relations, Code of Conduct, 11th bullet point]
- (e) "Failure to obtain permission to leave work for any reason during normal working hours" may result in discipline/termination. [Section II - Employee Relations, Code of Conduct, 18th bullet point]
- (f) "Any gross misconduct that has an adverse effect on production or the work environment or the reputation of the Company" may result in discipline/termination. [Section II - Employee Relations, Code of Conduct, 29th bullet point]
- (g) "Before information is provided to...[any] other person (e.g., external attorney, investigator, competitor), the employee must immediately notify the employee's supervisor, manager, or department head and must not provide any information or conduct any discussions unless specifically authorized to do so." [Section VII – General Practices, Contacts with Outside Representatives]
- (h) "Clothing should be free of ... political slogans...." [Section VII – General Practices, Personal Appearance]
- (i) "Company information deemed confidential includes... personnel and payroll records regarding current and former employees, salaries, wages, and other forms of compensation...."

[Section VII – General Practices, Confidentiality of Company Information]

(j) “Therefore, all full-time, non-bargaining, non-exempt employees are eligible to participate in the Company’s Attendance Bonus Program.” [Section V – Time Off/Leaves, Attendance, Attendance Bonus Program]

10. Since about January 2009, Respondent Covanta, Respondent SEMASS, and

Respondent Subsidiaries have maintained in the Employee Handbook the following provisions:

(a) “While distribution of literature is permitted in non-work areas during non-working time, in order to reduce litter, custodial workloads, and to maintain the premises in a clean and orderly condition, employee [sic] are prohibited from leaving multiple copies or stacks of literature or other written materials in non-work areas in lieu of direct distribution.” [Section VII – General Practices, Bulletin Boards, Solicitation & Distribution of Literature Policy]

(b) “Failure to obtain permission to leave work for any reason during normal working hours” may result in discipline/termination. [Section II - Employee Relations, Code of Conduct, 17th bullet point (previously, 18th bullet point)]

(c) “Company information deemed confidential includes... personnel and payroll records regarding current and former employees, salaries, wages, and other forms of compensation....” [Section VII – General Practices, Confidentiality of Company Information]

(d) “Therefore, all full-time, non-bargaining, non-exempt employees are eligible to participate in the Company’s Attendance Bonus Program.” [Section V – Time Off/Leaves, Attendance, Attendance Bonus Program]

11. By the conduct described above in paragraphs 8, 9, and 10, Respondents have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

12. The unfair labor practices of Respondents described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

ANSWER REQUIREMENT

Respondents are notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, they each must file an answer to the consolidated complaint. The answer must be **received by this office on or before June 3, 2009, or postmarked on or before June 2, 2009.** Respondents should each file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on **E-Gov**, then click on the **E-Filing** link on the pull-down menu. Click on the "File Documents" button under "Regional, Subregional and Resident Offices" and then follow the directions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Sections 102.21. If an answer being filed electronically is a .pdf document containing the required signature, no paper copies of the document need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a .pdf file containing the required signature, then the E-filing rules require that such answer containing the

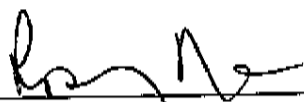
required signature be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing.

Service of the answer on each of the other parties must be accomplished in conformance with the requirements of Section 102.114 of the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed or if an answer is filed untimely, the Board may find, pursuant to Motion for Default Judgment, that the allegations in the consolidated complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on August 17, 2009, at 11:00 a.m. at the Thomas P. O'Neill Jr. Federal Building, 10 Causeway Street, Sixth Floor, Boston, Massachusetts 02222-1072, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondents and any other party to this proceeding have the right to appear and present testimony regarding the allegations in the consolidated complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Boston, Massachusetts this 20th day of May, 2009.



Rosemary Pye, Regional Director
National Labor Relations Board
First Region
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street, Sixth Floor
Boston, Massachusetts 02222-1072

Appendix A

Covanta Haverhill, Inc.; Covanta Pittsfield, LLC; Covanta Springfield, LLC; Braintree Transfer Station; Holliston Transfer Station; Covanta Niagara Company; Burney Mountain Power; Covanta Alexandria/Arlington; Covanta Babylon, Inc; Covanta Bristol, Inc.; Covanta Delaware Valley L.P.; Covanta Essex Company; Covanta Fairfax, Inc.; Covanta Harrisburg, Inc.; Covanta Hempstead Co.; Covanta Hennepin; Covanta Hillsborough, Inc.; Covanta Honolulu; Covanta Huntington, L.P.; Covanta Huntsville, Inc.; Covanta Indianapolis, Inc.; Covanta Kent, Inc.; Covanta Lake, Inc.; Covanta Lancaster, Inc.; Covanta Lee, Inc.; Covanta Marion, Inc.; Covanta Mendota; Covanta Mid-Conn, Inc.; Covanta Montgomery, Inc.; Covanta Onondaga, L.P.; Covanta Pasco, Inc.; Covanta Pittsfield, LLC; Covanta SECONN; Covanta Springfield, LLC; Covanta Stanislaus, Inc.; Covanta Union, Inc.; Covanta Wallingford; Covanta Warren; Covanta WBH; Holliston Transfer Station; Koma Kulshan Hydro Plant; Michigan Waste Energy, Inc.; Mount Lassen Power; Pacific Oroville Power, Inc.; and Weeks Falls Hydro Plant.

Form NLRB-4338
(6-90)

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

NOTICE

Case: 1-CA-44920 & 1-CA-45239

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hours, and place indicated. Postponements *will not be granted* unless good and sufficient grounds are shown *and* the following requirements are met:

- when
CFR
- (1) The request must be in writing. An original and two copies must be filed with the Regional Director appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 102.16(b);
 - (2) Grounds must be set forth in *detail*;
 - (3) Alternative dates for any rescheduled hearing must be given;
 - (4) The positions of the parties must be ascertained in advance by the requesting party and set forth in the request; *and*
 - (5) Copies must be simultaneously served on all parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

SEE ATTACHED LIST

<p>Anthony Orlando, CEO Covanta Energy Corporation 40 Lane Road Fairfield, NJ 07007 Certified No. 7008 1140 0003 1127 7066</p>	<p>Raymond J. Carey, Esq. Foley & Lardner LLP 500 Woodward Avenue, Suite 2700 Detroit, MI 48226</p>	<p>Holliston Transfer Station 115 Washington Street Holliston, MA 01746-1345 Certified No. 7008 1140 0003 1127 7356</p>
<p>Braintree Transfer Station 257 Ivory Street Braintree, MA 02184 Certified No. 7008 1140 0003 1127 7073</p>	<p>Covanta Springfield, LLC 188 M Street Extension Agawam, MA 01001 Certified No. 7008 1140 0003 1127 7219</p>	<p>Covanta Pittsfield, LLC 500 Hubbard Avenue Pittsfield, MA 01201 Certified No. 7008 1140 0003 1127 7363</p>
<p>Covanta Haverhill, Inc. 100 Recovery Way Haverhill, MA 01835 Certified No. 7008 1140 0003 1127 7080</p>	<p>Covanta SEMASS LLC 141 Cranberry Highway West Wareham, MA 02576 Certified No. 7008 1140 0003 1127 7226</p>	<p>Covanta Niagara Company 100 Energy Blvd. at 56th Street Niagara Falls, NY 14304 Certified No. 7008 1140 0003 1127 7370</p>
<p>Covanta Hennepin 505 6th Avenue North Minneapolis, MN 55405 Certified No. 7008 1140 0003 1127 7097</p>	<p>Covanta Fairfax, Inc. 9898 Furnace Road Lorton, VA 22079 Certified No. 7008 1140 0003 1127 7233</p>	<p>Covanta Alexandria/Arlington 5301 Eisenhower Avenue Alexandria, VA 22304 Certified No. 7008 1140 0003 1127 7387</p>
<p>Covanta Lancaster, Inc. 1911 River Road Bainbridge, PA 17502 Certified No. 7008 1140 0003 1127 7103</p>	<p>Covanta Harrisburg, Inc. 1670 South 19th Street Harrisburg, PA 17104 Certified No. 7008 1140 0003 1127 7240</p>	<p>Covanta Onondaga, L.P. 5801 Rock Cut Road Jamesville, NY 13078 Certified No. 7008 1140 0003 1127 7394</p>
<p>Covanta Montgomery, Inc. 21204 Martinsburg Road Dickerson, MD 20842 Certified No. 7008 1140 0003 1127 7110</p>	<p>Covanta Marion, Inc. 4850 Brooklake Road, NE Brooks, OR 97305 Certified No. 7008 1140 0003 1127 7257</p>	<p>Covanta Lee, Inc. 10500 Buckingham Road Ft. Myers, FL 33905 Certified No. 7008 1140 0003 1127 7400</p>
<p>Covanta Lake, Inc. 3830 Rogers Industrial Park Okahumpka, FL 34762 Certified No. 7008 1140 0003 1127 7127</p>	<p>Covanta Hillsborough, Inc. 350 North Falkenburg Road Tampa, FL 33619 Certified No. 7008 1140 0003 1127 7264</p>	<p>Covanta Huntsville, Inc. 5251 Triana Boulevard Huntsville, AL 35805 Certified No. 7008 1140 0003 1127 7417</p>
<p>Covanta Kent, Inc. 950 Market Avenue, SW Grand Rapids, MI 49503 Certified No. 7008 1140 0003 1127 7134</p>	<p>Michigan Waste Energy, Inc. 5700 Russell Street Detroit, MI 48211 Certified No. 7008 1140 0003 1127 7271</p>	<p>Covanta Pasco, Inc. 14230 Hays Road Spring Hill, FL 34610 Certified No. 7008 1140 0003 1127 7424</p>
<p>Koma Kulshan Hydro Plant 44710 Baker Lake Road Concrete, WA 98237 Certified No. 7008 1140 0003 1127 7158</p>	<p>Covanta Honolulu 91-174 Hanua Street Kapolei, HI 96707 Certified No. 7008 1140 0003 1127 7288</p>	<p>Weeks Falls Hydro Plant North Blend, WA 98045 Certified No. 7008 1140 0003 1127 7431</p>

Covanta Indianapolis, Inc.
2320 south Harding Street
Indianapolis, IN 46221
Certified No. 7008 1140 0003 1127 7165

Covanta WBH
2122 Couth Yukon Avenue
Tulsa, OK 74107
Certified No. 7008 1140 0003 1127 7295

Pacific Oroville Power, Inc.
3050 South 5th Street
Oroville, CA 95965
Certified No. 7008 1140 0003 1127 7448

Covanta Essex Company
183 Raymond Boulevard
Newark, NJ 07105
Certified No. 7008 1140 0003 1127 7172

Covanta Warren
218 Mt. Pisgah Avenue
Oxford, NJ 07863
Certified No. 7008 1140 0003 1127 7301

Covanta Union, Inc.
1499 Route I North
Rahway, NJ 07065
Certified No. 7008 1140 0003 1127 7455

Covanta Babylon, Inc.
125 Gleam Street
West Babylon, NY 11704
Certified No. 7008 1140 0003 1127 7189

Burney Mountain Power
37800 Energy Drive
Burney, CA 96013
Certified No. 7008 1140 0003 1127 7318

Mount Lassen Power
County Road A21
Westwood, CA 96137
Certified No. 7008 1140 0003 1127 7462

Covanta Mendota
400 Guillen Parkway
P.O. Box 99
Mendota, CA 93640
Certified No. 7008 1140 0003 1127 7196

Covanta Stanislaus, Inc.
4041 Fink Road
Crows Landing, CA 95313
Certified No. 7008 1140 0003 1127 7479

Covanta Huntington, L.P.
99 Town Line Road
East Northport, NY 11731
Certified No. 7008 1140 0003 1127 7332

Covanta Bristol, Inc.
170 Enterprise Drive
Bristol, CT 06010
Certified No. 7008 1140 0003 1127 7325

Covanta Hempstead Company
600 Merchants Concourse
Westbury, NY 11590
Certified No. 7008 1140 0003 1127 7486

Covanta Wallingford
530 South Cherry Street
Wallingford, CT 06492
Certified No. 7008 1140 0003 1127 7349

Covanta Mid-Conn, Inc.
Reserve Road, Gate 20-20
Hartford, CT 06114
Certified No. 7008 1140 0003 1127 7202

Covanta SECONN
Military Highway
Preston, CT 06365
Certified No. 7008 1140 0003 1127 7493

Utility Workers Union of America,
Local 369, AFL-CIO
120 Bay State Drive
Braintree, MA 02184

Mr. Louis A. Mandarini, Esq.
Segal Roitman, LLO
111 Devonshire Street, 5th Floor
Boston, MA 02109

FORM NLRB-4668
(4-05)

(C CASES)

**SUMMARY OF STANDARD PROCEDURES IN FORMAL HEARINGS HELD
BEFORE THE NATIONAL LABOR RELATIONS BOARD
IN UNFAIR LABOR PRACTICE PROCEEDINGS PURSUANT TO
SECTION 10 OF THE NATIONAL LABOR RELATIONS ACT**

The hearing will be conducted by an administrative law judge of the National Labor Relations Board who will preside at the hearing as an independent, impartial finder of the facts and applicable law whose decision in due time will be served on the parties. The offices of the administrative law judges are located in Washington, DC; San Francisco, California; New York, N.Y.; and Atlanta, Georgia.

At the date, hour, and place for which the hearing is set, the administrative law judge, upon the joint request of the parties, will conduct a "prehearing" conference, prior to or shortly after the opening of the hearing, to ensure that the issues are sharp and clearcut; or the administrative law judge may independently conduct such a conference. The administrative law judge will preside at such conference, but may, if the occasion arises, permit the parties to engage in private discussions. The conference will not necessarily be recorded, but it may well be that the labors of the conference will be evinced in the ultimate record, for example, in the form of statements of position, stipulations, and concessions. Except under unusual circumstances, the administrative law judge conducting the prehearing conference will be the one who will conduct the hearing; and it is expected that the formal hearing will commence or be resumed immediately upon completion of the prehearing conference. No prejudice will result to any party unwilling to participate in or make stipulations or concessions during any prehearing conference.

(This is not to be construed as preventing the parties from meeting earlier for similar purposes. To the contrary, the parties are encouraged to meet prior to the time set for hearing in an effort to narrow the issues.)

Parties may be represented by an attorney or other representative and present evidence relevant to the issues. All parties appearing before this hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.603, should notify the Regional Director as soon as possible and request the necessary assistance.

An official reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the administrative law judge for approval.

All matter that is spoken in the hearing room while the hearing is in session will be recorded by the official reporter unless the administrative law judge specifically directs off-the-record discussion. In the event that any party wishes to make off-the-record statements, a request to go off the record should be directed to the administrative law judge and not to the official reporter.

Statements of reasons in support of motions and objections should be specific and concise. The administrative law judge will allow an automatic exception to all adverse rulings and, upon appropriate order, an objection and exception will be permitted to stand to an entire line of questioning.

All exhibits offered in evidence shall be in duplicate. Copies of exhibits should be supplied to the administrative law judge and other parties at the time the exhibits are offered in evidence. If a copy of any exhibit is not available at the time the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the administrative law judge before the close of hearing. In the event such copy is not submitted, and the filing has not been waived by the administrative law judge, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

Any party shall be entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. In the absence of a request, the administrative law judge may ask for oral argument if, at the close of the hearing, it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.

(OVER)

Form NLRB-4668 (4-05) *Continued*

In the discretion of the administrative law judge, any party may, on request made before the close of the hearing, file a brief or proposed findings and conclusions, or both, with the administrative law judge who will fix the time for such filing. Any such filing submitted shall be double-spaced on 8½ by 11 inch paper.

Attention of the parties is called to the following requirements laid down in Section 102.42 of the Board's Rules and Regulations, with respect to the procedure to be followed before the proceeding is transferred to the Board:

No request for an extension of time within which to submit briefs or proposed findings to the administrative law judge will be considered unless received by the Chief Administrative Law Judge in Washington, DC (or, in cases under the branch offices in San Francisco, California; New York, New York; and Atlanta, Georgia, the Associate Chief Administrative Law Judge) at least 3 days prior to the expiration of time fixed for the submission of such documents. Notice of request for such extension of time must be served simultaneously on all other parties, and proof of such service furnished to the Chief Administrative Law Judge or the Associate Chief Administrative Law Judge, as the case may be. A quicker response is assured if the moving party secures the positions of the other parties and includes such in the request. All briefs or proposed findings filed with the administrative law judge must be submitted in triplicate, and may be printed or otherwise legibly duplicated with service on the other parties.

In due course the administrative law judge will prepare and file with the Board a decision in this proceeding, and will cause a copy thereof to be served on each of the parties. Upon filing of this decision, the Board will enter an order transferring this case to itself, and will serve copies of that order, setting forth the date of such transfer, on all parties. At that point, the administrative law judge's official connection with the case will cease.

The procedure to be followed before the Board from that point forward, with respect to the filing of exceptions to the administrative law judge's decision, the submission of supporting briefs, requests for oral argument before the Board, and related matters, is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be served on the parties together with the order transferring the case to the Board.

Adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations. If adjustment appears possible, the administrative law judge may suggest discussions between the parties or, on request, will afford reasonable opportunity during the hearing for such discussions.