

OTTER TAIL CORP
Form DEF 14A
March 09, 2009

Table of Contents

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of the Securities
Exchange Act of 1934 (Amendment No.)

Filed by the Registrant
Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Pursuant to §240.14a-12

Otter Tail Corporation
(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- No fee required.
- Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

1) Title of each class of securities to which transaction applies:

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Table of Contents

2009
Proxy Statement and
Annual Meeting Notice

Table of Contents

**Otter Tail Corporation
Annual Meeting of Shareholders**

Monday, April 20, 2009

10 a.m., CDT

Bigwood Event Center

921 Western Avenue
(Highway 210 West and Interstate 94)
Fergus Falls, Minnesota

Coffee will be served at 9:15 a.m., and lunch will follow the meeting. No reservation is necessary.

Please present your admission ticket,
which is attached to your proxy.

**Contact Shareholder
Services for Information**

| | |
|----------|--|
| E-mail | sharesvc@ottertail.com |
| Internet | www.ottertail.com |
| Fax | 218-998-3165 |
| Phone | 800-664-1259 or 218-739-8479 |
| Mail | Otter Tail Corporation PO Box 496 Fergus Falls, Minnesota 56538-0496 |

Table of Contents

March 9, 2009

To the Holders of Common Shares of Otter Tail Corporation:

You are cordially invited to attend the Annual Meeting of Shareholders of Otter Tail Corporation, which will be held at the Bigwood Event Center, Best Western Motel, Highway 210 West and Interstate 94, Fergus Falls, Minnesota, at 10:00 a.m. on Monday, April 20, 2009.

Enclosed are a formal Notice of Annual Meeting and the Proxy Statement, which describe the business to be conducted at the meeting. The Board of Directors proposes that shareholders elect Ms. Karen M. Bohn, Mr. Edward J. McIntyre and Ms. Joyce Nelson Schuette for three-year terms on the Board of Directors.

Shareholders will be asked to ratify the appointment of Deloitte & Touche LLP as our independent registered public accounting firm for 2009.

Your vote is important. Whether or not you attend the meeting, we encourage you to vote your shares. You may vote your shares on the Internet or by using a toll-free telephone number. Instructions for using these convenient services are provided with your proxy card. Of course, you may vote your shares by marking your votes on the proxy card, signing and dating it, and mailing it in the envelope provided. If your shares are held of record in a brokerage account, please follow the instructions that you receive from your broker. Your broker will submit a proxy card to Otter Tail Corporation reflecting the votes it receives. ESOP participants should follow the instructions provided by Wells Fargo Bank, N.A.

For those shareholders who have not consented to electronic delivery of proxy materials, I have enclosed a copy of Otter Tail Corporation's 2008 Annual Report.

Sincerely,

John C. MacFarlane
Chairman of the Board

Table of Contents

Notice of Annual Meeting

Notice is hereby given to the holders of common shares of Otter Tail Corporation that the Annual Meeting of Shareholders of Otter Tail Corporation will be held at the Bigwood Event Center, Best Western Motel, Highway 210 West and Interstate 94, Fergus Falls, Minnesota, on Monday, April 20, 2009, at 10:00 a.m. to consider and act upon the following matters:

1. To elect three Directors to Otter Tail Corporation's Board of Directors to serve terms of three years.
2. To ratify the appointment of Deloitte & Touche LLP as our independent registered public accounting firm for the year 2009.
3. To transact such other business as may properly be brought before the meeting.

March 9, 2009

GEORGE A. KOECK

Corporate Secretary and General Counsel

Your Vote is Important

Please vote your proxy by telephone or the Internet as described in the instructions on the enclosed proxy card. Or sign, date, and return the proxy card in the enclosed envelope, which does not require postage if mailed in the United States. If your shares are held of record in a brokerage account, please follow the instructions that you receive from your broker. Your broker will submit a proxy card to Otter Tail Corporation reflecting the votes it receives. ESOP participants should follow the instructions provided by Wells Fargo Bank, N.A.

Shareholders who are currently receiving a paper copy of the Proxy Statement and Annual Report can elect to receive future reports over the Internet. If you are interested in this option, please contact Shareholder Services by calling our toll free number 800-664-1259, or by e-mail at sharesvc@ottertail.com. To obtain directions to attend the Annual Meeting and vote in person contact Shareholder Services at our toll free number 800-664-1259.

Important Notice Regarding the Availability of Proxy Materials for the Shareholder Meeting to be held on April 20, 2009

The Proxy Statement, form of Proxy and Annual Report, including Otter Tail Corporation's Annual Report on Form 10-K are available online at <http://www.ottertail.com/investors/annual.cfm>.

Table of Contents

| | |
|--|----|
| <u>Proxy Statement Questions and Answers</u> | 1 |
| <u>Outstanding Voting Shares</u> | 2 |
| <u>Election of Directors</u> | 2 |
| <u>Meetings and Committees of the Board of Directors</u> | 4 |
| <u>Contact with the Board of Directors</u> | 6 |
| <u>Director Compensation</u> | 6 |
| <u>Security Ownership of Directors and Officers</u> | 8 |
| <u>Compensation Discussion and Analysis</u> | 9 |
| <u>Report of Compensation Committee</u> | 14 |
| <u>Executive Compensation</u> | 15 |
| <u>Report of Audit Committee</u> | 22 |
| <u>Ratification of Independent Registered Public Accounting Firm</u> | 23 |
| <u>Policy and Procedures Regarding Transactions with Related Persons</u> | 24 |
| <u>Shareholder Proposals for 2010 Annual Meeting</u> | 25 |
| <u>Other Business</u> | 25 |

Table of Contents

Proxy Statement Questions and Answers

1. Q: Why am I receiving these materials?
A: The Board of Directors of Otter Tail Corporation is soliciting proxies and provides these materials in connection with its solicitation of proxies for use at the Annual Meeting of Shareholders to be held on April 20, 2009. As a shareholder you are invited to attend the annual meeting and are entitled to vote on the proposals described in this Proxy Statement. These materials were first sent to shareholders on or about March 9, 2009.

2. Q: Who is entitled to vote at the annual meeting?
A: Only common shareholders of record at the close of business on February 13, 2009 are entitled to vote at the annual meeting. As of the record date, 35,408,233 common shares of Otter Tail Corporation were issued and outstanding. Each shareholder is entitled to one vote per share.

3. Q: What issues may I vote on at the annual meeting?
A: You may vote on (1) the election of three nominees to serve on the Board of Directors; (2) the ratification of the appointment of Deloitte & Touche LLP as our independent registered public accounting firm for 2009; and (3) on any other business that is properly brought before the meeting.

4. Q: How do I vote my shares?
A: You may vote either in person at the annual meeting or by granting a proxy. If you desire to grant a proxy, then you have three voting options:
 - by telephone
 - by Internet
 - by proxy card

If you intend to vote by proxy, please refer to the instructions included on your proxy card. Voting by proxy will not affect your right to vote your shares if you attend the annual meeting and desire to vote in person.

5. Q: May I change my vote?
A: You have the right to revoke your proxy any time before the annual meeting by:
 - providing written notice to an officer of Otter Tail Corporation and voting in person at the annual meeting;
 - submitting another proper proxy by telephone or the Internet; or
 - submitting a new written proxy bearing a later date at any time before the proxy is voted at the meeting.

6. Q: How are the votes counted?
A: In the election of Directors, you may vote FOR all of the nominees or your vote may be WITHHELD with respect to one or more nominees. If you return your signed proxy card, but do not mark the boxes showing how you wish to vote, your shares will be voted FOR all nominees and FOR the ratification of the appointment of Deloitte & Touche LLP as our independent registered public accounting firm.

Shares voted as abstentions on any matter (or as withhold authority as to Directors) will be counted as shares that are present and entitled to vote for purposes of determining the presence of a quorum at

the meeting and as unvoted, although present and entitled to vote, for purposes of determining the approval of each matter as to which the shareholder has abstained.

If your shares are held in the name of a brokerage firm and you do not provide voting instructions to your broker, your shares will not be voted on any proposal for which your broker does not have discretionary authority to vote. If a broker submits a proxy that indicates that the broker does not have discretionary authority as to certain shares to vote on one or more proposals, those shares will be counted as shares that are present and entitled to vote for purposes of determining the presence of a quorum at the meeting, but will not be considered as present and entitled to vote with respect to such proposals. Brokers have discretionary authority to vote on the election of Directors and the ratification of the appointment of Deloitte & Touche LLP as our independent registered public accounting firm.

1

Table of Contents

7. Q: Where and when will I be able to find the results of the voting?
 A: Preliminary results will be announced at the Annual Meeting of Shareholders. Otter Tail Corporation will publish the final results in its quarterly report on Form 10-Q for the quarter ending June 30, 2009 to be filed with the Securities and Exchange Commission (SEC). You may also find the results on our website www.ottertail.com.
8. Q: Who bears the cost of soliciting votes for the annual meeting?
 A: Otter Tail Corporation will pay the cost of preparing, assembling, printing, mailing, and distributing these proxy materials. In addition to soliciting proxies by mail, employees of Otter Tail Corporation may solicit them by telephone or in person. Employees receive no additional compensation for these solicitation activities.

Outstanding Voting Shares

The only persons known to Otter Tail Corporation to own beneficially (as defined by the SEC for proxy statement purposes) more than 5% of the outstanding common shares of Otter Tail Corporation as of February 13, 2009, are as follows:

| Name and Address of Beneficial Owner | Amount and Nature of Beneficial Ownership | Percent of Class |
|---|--|-------------------------|
| Cascade Investment, L.L.C. 2365 Carillon Point Kirkland, WA 98033 | 3,406,499 shs. ¹ | 9.6 % |

- (1) According to Schedule 13D dated January 21, 2009, the common shares owned by Cascade Investment, L.L.C. (Cascade) as of January 21, 2009 are deemed to be owned beneficially by William H. Gates, III, as the sole member of Cascade. Michael Larson, the business manager of Cascade, has voting and investment power with respect to the common shares held by Cascade.

Election of Directors

The Board of Directors of Otter Tail Corporation is comprised of nine Directors divided into three classes. The members of each class are elected to serve three-year terms with the term of office of each class ending in successive years. The terms of Ms. Karen M. Bohn, Mr. Edward J. McIntyre and Ms. Joyce Nelson Schuette expire at the time of the 2009 Annual Meeting of Shareholders. The Board of Directors, upon recommendation of the Corporate Governance Committee, nominates Ms. Bohn, Mr. McIntyre and Ms. Schuette for election to serve a three-year term ending at the time of the Annual Meeting of Shareholders in 2012.

Under Minnesota law, the affirmative vote of a plurality of the common shares present and entitled to vote with respect to the election of Directors is required for the election of the nominees to the Board of Directors. Proxies, unless otherwise directed thereon, will be voted in favor of all nominees. The proxies solicited may be voted for a substitute nominee or nominees in the event that any of the nominees is unable to serve, or for good reason will not

serve, which is a contingency not now anticipated.

Brief biographies of the Director nominees and of the continuing Directors are found below. These biographies include the ages of the Directors (as of the 2009 Annual Meeting of Shareholders) and outlines of their business experiences. Each Director and Director nominee has held the same position or another executive position with the same employer for the past five years.

The Board of Directors has determined that, with the exception of Mr. John D. Erickson and Mr. John C. MacFarlane, all of the Directors and Director nominees are independent (as defined by the NASDAQ Listing Standards). Mr. Charles S. MacFarlane, President, Otter Tail Power Company, is the son of Mr. J. MacFarlane.

2

Table of Contents

The Board of Directors recommends a vote FOR the election of all nominees to the Board of Directors.

| Name | Principal Occupation | Age | Director Since |
|---|---|------------|-----------------------|
| Nominees for election for three year terms expiring in April 2012: | | | |
| Karen M. Bohn | President Galeo Group, LLC (management consulting firm) Edina, Minnesota Director, Gander Mountain Company Ms. Bohn serves on the Audit, Corporate Governance, and Executive Committees. | 55 | 2003 |
| Edward J. McIntyre | Retired Vice President and Chief Financial Officer Xcel Energy, Inc. (energy company) White Salmon, Washington Mr. McIntyre serves on the Audit and Compensation Committees. | 58 | 2006 |
| Joyce Nelson Schuette | Retired Managing Director and Investment Banker Piper Jaffray & Co. (financial services) Walker, Minnesota Ms. Schuette serves on the Compensation and Corporate Governance Committees. | 58 | 2006 |
| Directors with terms expiring in April 2011: | | | |
| John D. Erickson | President & CEO Otter Tail Corporation Fergus Falls, Minnesota Mr. Erickson serves on no Committees. | 50 | 2007 |
| Nathan I. Partain | President and Chief Investment Officer Duff and Phelps Investment Management Co. Chicago, Illinois President, Chief Executive Officer and Chief Investment Officer DNP Select Income Fund, Inc. (closed-end utility income fund) Director, DNP Select Income Fund Inc. Director, DTF Tax-Free Income Inc. Director, Duff & Phelps Utility and Corporate Bond Trust Inc. Mr. Partain serves on the Audit, Compensation, and Executive Committees. | 52 | 1993 |

| | | | |
|----------------|--|----|------|
| James B. Stake | Retired Executive Vice President Enterprise Services 3M Company (diversified manufacturing) Edina, Minnesota Director, C. H. Robinson Worldwide, Inc. Mr. Stake serves on the Audit and Compensation Committees. | 56 | 2008 |
|----------------|--|----|------|

Table of Contents

| Name | Principal Occupation | Age | Director Since |
|---|--|------------|-----------------------|
| Directors with terms expiring in April 2010: | | | |
| Arvid R. Liebe | Retired President Liebe Drug, Inc. (retail business) Owner Liebe Farms, Inc. Milbank, South Dakota Mr. Liebe serves on the Compensation, Corporate Governance, and Executive Committees. | 67 | 1995 |
| John C. MacFarlane | Chairman of the Board Retired Chief Executive Officer and President Otter Tail Corporation Fergus Falls, Minnesota Mr. MacFarlane serves on the Executive Committee. | 69 | 1983 |
| Gary J. Spies | Chairman Service Food, Inc. (retail business) Fergus Falls, Minnesota Vice President Fergus Falls Development Company, Midwest Regional Development Company, LLC (land and housing development) Fergus Falls, Minnesota Mr. Spies serves on the Audit and Corporate Governance Committees. | 67 | 2001 |

Meetings and Committees of the Board of Directors

The full Board of Directors of Otter Tail Corporation considers all major decisions of Otter Tail Corporation. The Board of Directors has established a standing Audit Committee, Compensation Committee, Corporate Governance Committee, and Executive Committee so that certain important matters can be addressed in more depth than may be possible in a full Board of Directors meeting. Each committee operates under a charter that is reviewed annually by that committee and the Board of Directors.

The full Board of Directors held a total of nine regularly scheduled and special meetings in 2008. The Board of Directors also held a planning retreat with senior management. During 2008, the Board of Directors met in executive session without management at each meeting and the retreat. It also met without Chairman Mr. J. MacFarlane present at certain meetings. Each Director attended at least 75% of the total meetings of the Board of Directors and the meetings of the committees on which he or she served. Each Director attended the Annual Meeting of Shareholders in 2008. Although Otter Tail Corporation does not have a formal policy, it is expected that its Directors and executive officers will attend the Annual Meeting of Shareholders in 2009.

Audit Committee

The Audit Committee reviews the financial results of Otter Tail Corporation, reviews accounting, audit and control procedures, and retains and supervises the independent registered public accounting firm. The Audit Committee has oversight responsibility for Otter Tail Corporation's Code of Conduct. This committee is composed of five members of the Board of Directors who, for 2008, were Ms. Bohn, Mr. McIntyre, Mr. Nathan Partain (Chair), Mr. Gary J. Spies and Mr. James B. Stake. All committee members are independent Directors (as defined by the NASDAQ Listing Standards). The Board of Directors has determined that Mr. McIntyre and Mr. Partain meet the SEC definition of an audit committee financial expert and all members of the committee

4

Table of Contents

are financially literate. During the course of 2008 the committee received training on new financial issues affecting Otter Tail Corporation. The Audit Committee held five meetings in 2008. For further information on the actions of the Audit Committee, please refer to the Report of the Audit Committee on page 22. The Audit Committee Charter may be reviewed at www.ottertail.com.

Compensation Committee

The Compensation Committee reviews, recommends, and reports to the Board of Directors on all compensation programs, plans and policies involving Otter Tail Corporation's Board of Directors and certain executive officers and it develops, evaluates, and recommends for approval all equity based compensation plans of Otter Tail Corporation. The Compensation Committee oversees the administration of the 1999 Employee Stock Purchase Plan, the 1999 Stock Incentive Plan, and the Executive Annual Incentive Plan. Working with an outside compensation consultant retained by it, and subject to approval by the Board of Directors, this committee sets compensation for the Directors, the Chief Executive Officer, the Chief Financial Officer, and certain other executive officers. This committee is composed of five members of the Board of Directors who, for 2008, were Mr. Arvid Liebe (Chair), Mr. McIntyre, Mr. Partain, Ms. Schuette and Mr. Stake, all of whom are independent Directors (as defined by the NASDAQ Listing Standards). The Compensation Committee held four meetings in 2008. For further information on the actions of the Compensation Committee, please refer to the Compensation Discussion and Analysis (CD&A) on page 9 and the Report of Compensation Committee on page 14. The Compensation Committee Charter may be reviewed at www.ottertail.com.

Corporate Governance Committee

The Corporate Governance Committee identifies and recommends to the Board of Directors qualified candidates for election as Directors, recommends Director committee assignments, and recommends actions necessary for the proper governance of Otter Tail Corporation, and for the evaluation of the performance of the Board of Directors and Chief Executive Officer. With input from the Chief Executive Officer, the Corporate Governance Committee recommends certain executive officers for annual election. The Corporate Governance Committee reviews issues and developments related to corporate governance practices and makes recommendations to the Board of Directors on changes in structure, rule or practice necessary for compliance and for good corporate governance.

The Board of Directors has not set minimum standards for Director candidates. Rather, it seeks highly qualified individuals with a wide variety of business and life experiences that will enable them to constructively review and guide management of Otter Tail Corporation. Otter Tail Corporation has successfully obtained highly qualified candidates for Directors without utilizing a paid outside consultant. The Corporate Governance Committee considers and evaluates potential Director candidates and makes its recommendations to the full Board of Directors. Any shareholder may submit a recommendation for nomination to the Board of Directors by sending a written statement of the qualifications of the recommended individual to the President and Chief Executive Officer, Otter Tail Corporation, Box 496, Fergus Falls, Minnesota 56538-0496. The Corporate Governance Committee will utilize the same process for evaluating all nominees, regardless of whether the nominee recommendation is submitted by a shareholder or some other source.

If a shareholder wishes to nominate a candidate for election to the Board of Directors, in order for the nomination to be properly made the shareholder must give written notice to the Secretary of Otter Tail Corporation. Notice must be received at Otter Tail Corporation's principal executive offices at least 90 days before the date that is one year after the prior year's regular meeting. The notice must set forth: (i) the name and address of the shareholder who intends to make the nomination and of the nominee or nominees, (ii) a representation that the shareholder is a holder of record of shares of Otter Tail Corporation entitled to vote at the meeting and that the shareholder intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice, (iii) a description of all arrangements or understanding between the shareholder and each nominee and any other person or persons (naming such person or persons) pursuant to which the nomination or nominations are to be made by the shareholder, (iv) such other information regarding each nominee proposed by the shareholder as would have been required to be included in

a proxy statement filed pursuant to the proxy rules of the SEC had each nominee been nominated, or intended to be nominated,

5

Table of Contents

by the Board of Directors, and (v) the consent of each nominee to serve as a Director of Otter Tail Corporation if so elected.

The Corporate Governance Committee is composed of four members of the Board of Directors who, for 2008, were Ms. Bohn (Chair), Mr. Liebe, Ms. Schuette, and Mr. Spies, all of whom are independent Directors (as defined by the NASDAQ Listing Standards). The Corporate Governance Committee held three meetings in 2008. The Corporate Governance Committee Charter may be reviewed at www.ottertail.com.

Executive Committee

The Executive Committee exercises certain powers of the Board of Directors between normally scheduled Board of Directors meetings and performs such duties as the Board of Directors may assign to it. The Executive Committee is composed of four members of the Board of Directors who, for 2008, were Ms. Bohn, Mr. Liebe, Mr. J. MacFarlane, and Mr. Partain (Chair). The Executive Committee did not meet in 2008.

Contact with the Board of Directors

Shareholders may contact the Board of Directors by either mail or e-mail. Questions may be sent to the entire Board of Directors, to a particular committee, or to an individual Director. The mailing address is Otter Tail Corporation, Board of Directors, Box 9156, Fargo, North Dakota 58106-9156 and the e-mail address is boardofdirectors@ottertail.com. Although reviewed by the General Counsel, all questions are forwarded to the Board of Directors or the appropriate committee or Director.

Director Compensation

Compensation for non-employee Directors is described below. Mr. Erickson does not receive Director compensation for his service as a member of the Board of Directors.

In 2007 the Compensation Committee retained Towers Perrin to assess the competitiveness of the compensation provided to Directors of Otter Tail Corporation. Towers Perrin utilized data from a general industry compensation survey performed by it. From that group it established a market median for compensation in the categories of retainers, committee chair retainers, meeting and committee fees, and equity compensation. Towers Perrin made recommendations to the Compensation Committee that would place Director compensation at or near market median for Director compensation. Towers Perrin also presented to the Committee information on compensation structure. Based in part on the information provided by Towers Perrin the Compensation Committee determined to utilize a simple retainer structure for Director compensation and set overall compensation near median for comparable companies in general industry.

Non-employee Directors of Otter Tail Corporation receive an annual retainer for their services as a Director. Non-employee Directors, except the Chairman, receive an annual retainer of \$60,000. The Chairman receives an annual retainer of \$84,000. Each committee chair receives an additional retainer of \$7,000 per year. Directors do not receive a meeting fee for attending either committee or Board of Director meetings. In addition, non-employee Directors receive actual expense reimbursement or a \$100 travel allowance if they are required to furnish their own transportation to Board of Directors or committee meetings outside their city of residence.

Each non-employee Director receives an annual grant of restricted stock, which in 2008 was 2,500 shares granted under the terms of the 1999 Stock Incentive Plan. The shares of restricted stock, which were granted on the date of the annual meeting, vest over a period of four years, at the rate of 25% per year, and are eligible for full dividend and voting rights.

Directors may elect to receive their compensation (other than expense reimbursements) in the form of cash, stock or a combination. Directors may elect to defer the receipt of all or part of their cash compensation pursuant to the Otter Tail Corporation Deferred Compensation Plan for Directors. The deferral may be in the form of cash or stock units. Cash deferrals receive interest at a rate equal to 1% over the prime commercial rate of U.S. Bank National Association. Deferrals in the form of stock units are credited quarterly with

Table of Contents

dividend equivalents equal to the dividend rate on Otter Tail Corporation's common shares and the deferred amount is paid out in common shares.