

ACTUATE CORP
Form POS AM
January 16, 2015

As filed with the Securities and Exchange Commission on January 16, 2015

Registration No. 333-67220

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

POST-EFFECTIVE AMENDMENT NO. 1

TO

FORM S-3

REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

ACTUATE CORPORATION

(Exact Name of Registrant as specified in its charter)

**Delaware
(Jurisdiction of incorporation or organization)**

**94-3193197
(I.R.S. Employer Identification No.)**

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951 Mariners Island Boulevard

San Mateo, California 94404

(650) 645-3000

(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)

Gordon A. Davies

Secretary

Actuate Corporation

c/o Open Text Corporation

275 Frank Tompa Drive

Waterloo, Ontario, Canada N2L 0A1

(519) 888-7111

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

Neil Whoriskey

David Leinwand

Cleary Gottlieb Steen & Hamilton LLP

One Liberty Plaza

New York, New York 10006

212-225-2000

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If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities being offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer

Accelerated filer

Non-accelerated filer (Do not check if a smaller reporting company)

Smaller reporting company

EXPLANATORY NOTE

Deregistration of Securities

This Post-Effective Amendment No. 1 to the Registration Statement on Form S-3 (No. 333-67220) (the Registration Statement), is being filed to remove from registration all unsold securities of Actuate Corporation (the Company) registered under the Registration Statement.

On December 5, 2014, the Company, Open Text Corporation, a Canadian Corporation (OpenText), and Asteroid Acquisition Corporation, a Delaware wholly owned subsidiary of OpenText (Purchaser), entered into an Agreement and Plan of Merger (the Agreement). The Agreement contemplated that Purchaser would be merged with and into the Company (the Merger) and that the Company would survive the Merger as a wholly owned subsidiary of OpenText. The Merger became effective on January 16, 2015 (the Effective Date) as a result of filing a Certificate of Merger with the Secretary of State of the State of Delaware.

As of the Effective Date, each share of common stock of the Company issued and outstanding immediately prior to the Merger (other than each share (i) owned by OpenText or Purchaser or held by a wholly-owned subsidiary of OpenText or the Company, which will be cancelled and cease to exist without any payment being made with respect to such share or (ii) owned by the Company's stockholders who are entitled to and who properly exercised appraisal rights under Section 262 of the Delaware General Corporation Law with respect to such share) was cancelled and converted into the right to receive \$6.60 in cash, without interest thereon and less any required withholding taxes.

As a result of the Merger, the Company has terminated all offerings of its securities pursuant to its existing registration statements, including the Registration Statement. In accordance with an undertaking made by the Company in the Registration Statement to remove from registration by means of a post-effective amendment any securities registered under the Registration Statement which remain unsold at the termination of the offering, the Company hereby removes from registration any securities registered under the Registration Statement which remained unsold as of the Effective Date.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all the requirements for filing on Form S-3, and has duly caused this Post-Effective Amendment No. 1 to the Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Toronto, Ontario, Canada, on January 16, 2015.

ACTUATE CORPORATION

By: /s/ Gordon A. Davies
Name: Gordon A. Davies
Title: Secretary

Pursuant to the requirements of the Securities Act of 1933, this Post-Effective Amendment No. 1 to the Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

| Signature | Title | Date |
|--|-----------------------------------|------------------|
| /s/ John Doolittle John Doolittle | Director, President and Treasurer | January 16, 2015 |
| /s/ Gordon A. Davies Gordon A. Davies | Director and Secretary | January 16, 2015 |