

## **SECURITIES & EXCHANGE COMMISSION EDGAR FILING**

# **ACTUATE CORP**

Form: 4

Date Filed: 2015-01-20

Corporate Issuer CIK: 1062478

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### FORM 4

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

OMB APPROVA	L
OMB Number:	3235-0287
Estimated average burden	hours
per response	0.5

Check this box if no longer subject to Section 16. Form 4 or Form 5 obligations may continue. See Instruction 1(b).

#### STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934 or Section 30(h) of the Investment Company Act of 1940

(Print or Type Re	esponses)															
1. Name and Ad MARSHALL		1E			Susuer Name and Ticker or Trading Symbol     ACTUATE CORP [BIRT]     Date of Earliest Transaction (Month/Day/Year)						Relationship of Reporting Person(s) to Issuer     (Check all applicable)					
ACTUATE C		TION, 951 MAF		(Middle) ERS	3. Date o 01/16/2			ransaction	(Month/Day	r/Year)	_	Officer (give titl	le below)	Other	(specify below)	
		(Street)			4. If Ame	ndm	ent, Da	ate Origina	FiledMonth/I	Day/Year)		Form filed by One	e Reporting Pers		able Line)	
SAN MATEC	), CA 9440											Form filed by Mor	e than One Rep	oorting Person		
(City)		(State)		(Zip)				Table	I - Non-Der	ivative Securit	ies Acquire	d, Disposed o	of, or Benef	ficially Owned		
1.Title of Securit	ty			2. Transaction	2A. D			3. Transa		Securities Acq				ficially Owned		7. Nature
(Instr. 3)				Date Month/Day/Ye		ition	Date,	if Code (Instr. 8)	,	or Disposed on the control of t	. ,	lowing Reported tr. 3 and 4)	ed Iransact	ion(s)	Ownership Form:	of Indirect Beneficial
			(			h/Da	ıy/Yeaı	, ,		iotir o, rana o,	1	o aa .,			Direct (D)	Ownership
										(A) as						(Instr. 4)
								Code	V	(A) or amount (D)	Price				(I) (Instr. 4)	
								-1							,	
Reminder: Repo	ort on a sepa	rate line for each cl	ass o	of securities be	eneficially	own	ed dire	ctly or indi	<b>-</b>							
									form are	who respond not required t						1474 (9-02)
									OMB co	ntrol number.						
				Table						sed of, or Ber		vned				
1. Title of	2.	3. Transaction	зА	Deemed	( <i>e.g.</i> , p	outs		warrants,		onvertible sec ercisable and		I Amount of	8 Price of	9. Number of	10.	11. Nature
Derivative		Date		cution Date, if	Transacti	on	Deriva		Expiration			Securities	Derivative		Ownership	
Security	or Exercise	(Month/Day/Year)			Code		Secur		(Month/Da	y/Year)	(Instr. 3 an	d 4)	Security	Securities	Form of	Beneficial
(Instr. 3)	Price of Derivative		(IVIO	nth/Day/Year)	(Instr. 8)			red (A) or sed of (D)					(Instr. 5)	Beneficially Owned	Derivative Security:	Ownership (Instr. 4)
	Security						(Instr.	3, 4, and						Following	Direct (D)	,
						1	5)			1		IA	_	Reported Transaction(s)	or Indirect	
									Date	Expiration	Title	Amount or Number of		(Instr. 4)	(Instr. 4)	
					Code	٧	(A)	(D)	Exercisable	e Date		Shares				
Stock Option (right to buy)	\$ 4.03	01/16/2015			D			20,000	<u>(1)</u>	05/30/2016	Commo stock	20,000	\$0	0	D	
Stock Option (right to buy)	\$ 4.2	01/16/2015			D			16,000	<u>(2)</u>	05/26/2020	Commo stock	n 16,000	\$0	0	D	
Stock Option (right to buy)	\$ 4.6	01/16/2015			D			25,000	<u>(3)</u>	05/21/2019	Commo	25,000	\$0	0	D	
Stock Option (right to buy)	\$ 4.65	01/16/2015			D			25,000	<u>(4)</u>	05/21/2018	Commo stock	25,000	\$0	0	D	
Stock Option (right to buy)	\$ 5.47	01/16/2015			D			16,000	<u>(5)</u>	05/25/2021	Commo stock	n 16,000	\$0	0	D	
Stock Option (right to buy)	\$ 6.2	01/16/2015			D			25,000	<u>(6)</u>	05/30/2017	, Commo stock	25,000	\$0	0	D	
Restricted stock units	\$0	01/16/2015			D			16,000	<u>(7)</u>	(8)	Commo stock	n 16,000	\$0	0	D	
Restricted stock units	\$0	01/16/2015			D			8,000	<u>(9)</u>	<u>(10)</u>	Commo stock	8,000	\$0	0	D	
Restricted stock units	\$0	01/16/2015			D			16,000	<u>(11)</u>	<u>(12)</u>	Commo stock	n 16,000	\$0	0	D	
Restricted stock units	\$0	01/16/2015			D			8,000	<u>(13)</u>	<u>(14)</u>	Commo stock	8,000	\$0	0	D	
Restricted stock units	\$ 0	01/16/2015			D			8,000	<u>(15)</u>	<u>(16)</u>	Commo stock	n 8,000	\$0	0	D	

### **Reporting Owners**

		Relationsh	ips	
	Director	10% Owner	Officer	Other
Reporting Owner Name / Address				

MARSHALL KENNETH E ACTUATE CORPORATION			
951 MARINERS ISLAND BLVD. SAN MATEO, CA 94404	X		

#### **Signatures**

/s/ Kenneth E. Marshall	01/20/2015
-Signature of Reporting Person	Date

#### **Explanation of Responses:**

*	If the form is	filed by more	than one	reporting person	see Instruction	4(b)(v)

\*\* Intentional misstatements or omissions of facts constitute Federal Criminal Violations. See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

Pursuant to the terms of the Agreement and Plan of Merger dated December 5, 2014 (the "Merger Agreement") by and among Actuate Corporation ("Actuate"), Open Text Corporation ("Parent") and Asteroid Acquisition Corporation ("Merger Sub"), on January 16, 2015, at the Effective Time (as defined in the Merger Agreement) by virtue of the Merger, each company stock option, whether or not vested and exercisable, that was outstanding and unexercised immediately prior to the Effective Time, accelerated and was automatically converted in to the right to receive the excess, if any

(1) or not vested and exercisable, that was outstanding and unexercised immediately prior to the Effective Time, accelerated and was automatically converted in to the right to receive the excess, if any, of the price per share of \$6.60 (the "Offer Price"), without interest thereon and less any applicable withholding taxes (the "Merger Consideration") over the exercise price per share of the stock option, subject to any applicable tax withholding.

- (2) See footnote 1.
- (3) See footnote 1.
- (4) See footnote 1.
- (5) See footnote 1.
- (6) See footnote 1.

Pursuant to the Merger Agreement, on January 16, 2015, at the Effective Time by virtue of the Merger, (i) each time-vested restricted stock unit that had not vested as of the Effective Time (other than restricted stock units held by non-employee directors, which accelerated at the Effective Time), was converted into the right to receive the Merger Consideration in respect of each share underlying the restricted stock unit, subject to the same terms and conditions (including vesting and settlement schedules and taking into account any elective deferrals) as applied to such restricted stock unit immediately prior to the Effective Time, subject to any applicable tax withholding and (ii) each restricted stock unit that had vested but not settled (including each performance-vested restricted stock unit no longer subject to any performance conditions as of the date of the Merger Agreement), was converted into the right to receive the Merger Consideration in respect of each

- share underlyi
  (8) See footnote 7.
- (9) See footnote 7.
- (10) See footnote 7.
- (11) See footnote 7.
- (12) See footnote 7.
- (13) See footnote 7.
- (14) See footnote 7.
- (15) See footnote 7.
- (16) See footnote 7.

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, see Instruction 6 for procedure.

Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number.

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Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934 or Section 30(h) of the Investment Company Act of 1940

(Print or Type Re	esponses)														
1. Name and Ac MARSHALL		1E					nd Ticker or RP [BIRT]	Trading Sy	mbol	5. F					
ACTUATE C		(First) TION, 951 MAF	(Middle) RINERS	3. Date of Earliest Transaction (Month/Day 01/16/2015					/Year)		Officer (give title	e below)		(specify below)	
SAN MATEC	). CA 9440	(Street)		4. If Ame	ndm	ent, D	ate Origina	I Filed Month/D	ay/Year)	_x_	ndividual or Jo Form filed by One Form filed by More	Reporting Pers		able Line)	
(City)	, 0, 10 1 10	(State)	(Zip)				Table	I - Non-Deri	vative Securiti	es Acquired	I, Disposed o	of, or Benef	icially Owned		
1.Title of Securii (Instr. 3)	ty		2. Transaction Date (Month/Day/Ye		tion	Date,	3. Transa Code (Instr. 8)	(A	Securities Acqu ) or Disposed o istr. 3, 4 and 5)  (A) or mount (D)	f (D) Follo	5. Amount of Securities Beneficially Own Following Reported Transaction(s) (Instr. 3 and 4)				
Reminder: Repo	ort on a sepa	rate line for each cl					•	Persons form are OMB cor	who respond to not required to trol number.	o respond u	nless the for				1474 (9-02,
			Table				-	-	nvertible secu	-	ileu				
Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	Code	on	Deriv Secu Acqu Dispo		6. Date Exe Expiration I (Month/Day		7. Title and Underlying (Instr. 3 and	Securities	8. Price of Derivative Security (Instr. 5)	Securities Beneficially Owned Following Reported	Security: Direct (D) or Indirect	11. Nature of Indirect Beneficial Ownership (Instr. 4)
				Code	٧	(A)	(D)	Date Exercisable	Expiration Date	Title	Amount or Number of Shares		Transaction(s) (Instr. 4)	(I) (Instr. 4)	
Stock Option (right to buy)	\$ 4.03	01/16/2015		D			20,000	<u>(1)</u>	05/30/2016	Common stock	20,000	\$0	0	D	
Stock Option (right to buy)	\$ 4.2	01/16/2015		D			16,000	<u>(2)</u>	05/26/2020	Common stock	16,000	\$0	0	D	
Stock Option (right to buy)	\$ 4.6	01/16/2015		D			25,000	<u>(3)</u>	05/21/2019	Common stock	25,000	\$0	0	D	
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Stock Option (right to buy)	\$ 5.47	01/16/2015		D			16,000	<u>(5)</u>	05/25/2021	Common stock	16,000	\$0	0	D	
Stock Option (right to buy)	\$ 6.2	01/16/2015		D			25,000	<u>(6)</u>	05/30/2017	Common stock	25,000	\$0	0	D	
Restricted stock units	\$0	01/16/2015		D			16,000	<u>(7)</u>	<u>(8)</u>	Common	16,000	\$0	0	D	
Restricted stock units	\$0	01/16/2015		D			8,000	<u>(9)</u>	<u>(10)</u>	Stock	8,000	\$0	0	D	
Restricted stock units	\$ 0	01/16/2015		D			16,000	<u>(11)</u>	<u>(12)</u>	Stock	16,000	\$0	0	D	
Restricted stock units	\$0	01/16/2015		D			8,000	<u>(13)</u>	(14)	Common	8,000	\$0	0	D	
Restricted stock units	\$0	01/16/2015		D			8,000	<u>(15)</u>	<u>(16)</u>	Common stock	8,000	\$ 0	0	D	

### **Reporting Owners**

		Relationsh	ips	
	Director	10% Owner	Officer	Other
Reporting Owner Name / Address				

MARSHALL KENNETH E ACTUATE CORPORATION			
951 MARINERS ISLAND BLVD. SAN MATEO, CA 94404	X		

#### **Signatures**

/s/ Kenneth E. Marshall	01/20/2015
-Signature of Reporting Person	Date

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- (2) See footnote 1.
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- (4) See footnote 1.
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- (7) underlying the restricted stock unit, subject to the same terms and conditions (including vesting and settlement schedules and taking into account any elective deferrals) as applied to such restricted stock unit immediately prior to the Effective Time, subject to any applicable tax withholding and (ii) each restricted stock unit that had vested but not settled (including each performance-vested restricted stock unit no longer subject to any performance conditions as of the date of the Merger Agreement), was converted into the right to receive the Merger Consideration in respect of each share underlyi
- (8) See footnote 7.
- (9) See footnote 7.
- (10) See footnote 7.
- (11) See footnote 7.
- (12) See footnote 7.
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