

COCA-COLA ENTERPRISES, INC.

Form 425

April 07, 2016

**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**FORM 8-K**

**CURRENT REPORT**

**Pursuant to Section 13 or 15(d)**

**of the Securities Exchange Act of 1934**

**Date of Report (Date of earliest event reported): April 7, 2016 (April 7, 2016)**

**COCA-COLA ENTERPRISES, INC.**

**(Exact name of registrant as specified in its charter)**

**Delaware**  
**(State or other jurisdiction)**

**001-34874**  
**(Commission)**

**27-2197395**  
**(IRS Employer)**

**of incorporation)**

**File No.)**

**Identification No.)**

**2500 Windy Ridge Parkway, Atlanta, Georgia 30339**

**(Address of principal executive offices, including zip code)**

**(678) 260-3000**

**(Registrant's telephone number, including area code)**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

**Item 1.01. Entry into a Material Definitive Agreement.**

As previously announced, on August 6, 2015, Coca-Cola Enterprises, Inc., a Delaware corporation (the **Company**), European Refreshments, with its corporate seat in Drogheda, County Meath, Ireland, registered in the Companies Registration Office Dublin under no. 403110 ( **Red 1** ), Coca-Cola Gesellschaft mit beschränkter Haftung, with its corporate seat in Berlin, registered in the commercial register of the local court (*Amtsgericht*) of Berlin Charlottenburg under HRB 88247 B ( **Red 2** ) and Vivaqa Beteiligungs GmbH & Co. KG, with its corporate seat in Berlin, registered in the commercial register of the local court (*Amtsgericht*) of Berlin Charlottenburg under HRA 39236 B ( **Red 3** ) and, together with Red 1 and Red 2, **Red** ), Coca-Cola Iberian Partners, S.A.U. (formerly known as Coca-Cola Iberian Partners, S.A.), a Spanish company with registered office at Paseo de la Castellana, 259-C (Torre de Cristal), Floor 9, 28046, Madrid and Spanish tax identification number A-86,561,412 ( **Olive** ), Coca-Cola European Partners Limited (formerly known as Spark Orange Limited), a private limited company organized under the laws of England and Wales ( **Orange** ), Orange U.S. HoldCo, LLC, a Delaware limited liability company wholly owned by Orange ( **US HoldCo** ) and Orange MergeCo, LLC, a Delaware limited liability company wholly owned by US HoldCo ( **MergeCo** ) entered into a Transaction Master Agreement, as amended and restated on December 14, 2015 (the **Master Agreement** ). Simultaneously with such amendment and restatement, the parties executed an adherence agreement pursuant to which Olive's rights and obligations under the Master Agreement were novated to Olive Partners, S.A., a Spanish company with registered office at Paseo de la Castellana 259-C, planta 9, 28046, Madrid, Spain, and Spanish tax identification number A-87417820 ( **Olive HoldCo** ). The Master Agreement provides for the combination of the Company, Olive and Red's wholly owned subsidiary owning the operations of Red's German bottling business, Coca-Cola Erfrischungsgetränke GmbH (formerly known as Coca-Cola Erfrischungsgetränke Aktiengesellschaft), with its corporate seat in Berlin, registered in the commercial register of the local court (*Amtsgericht*) of Berlin Charlottenburg under HRB 62845 B ( **Black** ).

On April 7, 2016, the Company entered into an amendment and restatement deed (the **Amendment and Restatement Deed** ) to amend the Master Agreement (the **Amended and Restated Master Agreement** ) by and among the Company, Orange, US HoldCo, MergeCo, Olive HoldCo and Red. The Amended and Restated Master Agreement restates the Master Agreement in its entirety, with changes including adjusting deliverables and timing relating to the financial position metrics, clarifying the allocation of the costs and transaction expenses and correcting certain drafting and typographical errors.

In connection with the execution of the Amendment and Restatement Deed, the form of shareholders' agreement for Orange, attached as an exhibit thereto, was amended and restated in its entirety.

The foregoing summary does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the agreements attached as Exhibit 2.1 and Exhibit 2.2 and incorporated herein by reference.

The agreements attached hereto and incorporated herein have been included to provide security holders with information regarding their terms. They are not intended to provide any other factual information about the Company, Orange, US HoldCo, Olive, Olive HoldCo,

MergeCo, Red or Black. The representations, warranties and covenants contained in each such agreement were made solely for purposes of that agreement and as of specific dates, and were solely for the benefit of the parties to such agreement; may be subject to limitations agreed upon by the contracting parties, including being qualified by confidential disclosures made for the purposes of allocating contractual risk between the parties to such agreement instead of establishing these matters as facts; and may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to security holders. Security holders are not third-party beneficiaries under such agreements and should not rely on the representations, warranties and covenants or any descriptions thereof as characterizations of the actual state of facts or condition of the Company, Orange, US HoldCo, MergeCo, Olive, Olive HoldCo, Red or Black or any of their respective subsidiaries or affiliates. Moreover, information concerning the subject matter of the representations, warranties and covenants may change after the date of such agreements, which subsequent information may or may not be fully reflected in the Company's public disclosures.

**Item 9.01. Financial Statements and Exhibits.**

(d) Exhibits.

- 2.1 Transaction Master Agreement, as amended by the Amendment and Restatement Deed, dated as of April 7, 2016, among the Company, Red, Olive, Orange, MergeCo and US HoldCo\*
- 2.2 Form of Shareholders' Agreement among Orange, Olive HoldCo and Red\*

\* Certain annexes and/or schedules have been omitted and the Company agrees to furnish supplementally to the Commission a copy of any omitted annexes and/or schedules upon request.

**FORWARD-LOOKING STATEMENTS**

This communication may contain statements, estimates or projections that constitute forward-looking statements as defined under U.S. federal securities laws. Generally, the words believe, expect, intend, estimate, anticipate, plan, seek, may, could, would, should, might, will, forecast, outlook, guidance, possible, and other expressions identify forward-looking statements, which generally are not historical in nature. Forward-looking statements are subject to certain risks and uncertainties that could cause actual results to differ materially from The Coca-Cola Company's (KO), Coca-Cola Enterprises, Inc.'s (CCE) or Coca-Cola European Partners Limited's (CCEP) historical experience and their respective present expectations or projections, including expectations or projections with respect to the transaction. These risks include, but are not limited to, obesity concerns; water scarcity and poor quality; evolving consumer preferences; increased competition and capabilities in the marketplace; product safety and quality concerns; perceived negative health consequences of certain ingredients, such as non-nutritive sweeteners and biotechnology-derived substances, and of other substances present in their beverage products or packaging materials; increased demand for food products and decreased agricultural productivity; changes in the retail landscape or the loss of key retail or foodservice customers; an inability to expand operations in emerging or developing markets; fluctuations in foreign currency exchange rates; interest rate increases; an inability to maintain good relationships with their partners; a deterioration in their partners' financial condition; increases in income tax rates, changes in income tax laws or unfavorable resolution of tax matters; increased or new indirect taxes in the United States or in other tax jurisdictions; increased cost, disruption of supply or shortage of energy or fuels; increased cost, disruption of supply or shortage of ingredients, other raw materials or packaging materials; changes in laws and regulations relating to beverage containers and packaging; significant additional labeling or warning requirements or limitations on the

availability of their respective

products; an inability to protect their respective information systems against service interruption, misappropriation of data or breaches of security; unfavorable general economic or political conditions in the United States, Europe or elsewhere; litigation or legal proceedings; adverse weather conditions; climate change; damage to their respective brand images and corporate reputation from negative publicity, even if unwarranted, related to product safety or quality, human and workplace rights, obesity or other issues; changes in, or failure to comply with, the laws and regulations applicable to their respective products or business operations; changes in accounting standards; an inability to achieve their respective overall long-term growth objectives; deterioration of global credit market conditions; default by or failure of one or more of their respective counterparty financial institutions; an inability to timely implement their previously announced actions to reinvigorate growth, or to realize the economic benefits they anticipate from these actions; failure to realize a significant portion of the anticipated benefits of their respective strategic relationships, including (without limitation) KO's relationship with Keurig Green Mountain, Inc. and Monster Beverage Corporation; an inability to renew collective bargaining agreements on satisfactory terms, or they or their respective partners experience strikes, work stoppages or labor unrest; future impairment charges; multi-employer plan withdrawal liabilities in the future; an inability to successfully manage the possible negative consequences of their respective productivity initiatives; global or regional catastrophic events; risks and uncertainties relating to the transaction, including the risk that the businesses will not be integrated successfully or such integration may be more difficult, time-consuming or costly than expected, which could result in additional demands on KO's or CCEP's resources, systems, procedures and controls, disruption of its ongoing business and diversion of management's attention from other business concerns, the possibility that certain assumptions with respect to CCEP or the transaction could prove to be inaccurate, the failure to receive, delays in the receipt of, or unacceptable or burdensome conditions imposed in connection with, all required regulatory approvals and the satisfaction of the closing conditions to the transaction, the potential failure to retain key employees of CCE, Coca-Cola Iberian Partners, S.A.U. (CCIP) or Coca-Cola Erfrischungsgetränke GmbH as a result of the proposed transaction or during integration of the businesses and disruptions resulting from the proposed transaction, making it more difficult to maintain business relationships; and other risks discussed in KO's and CCE's filings with the Securities and Exchange Commission (the SEC), including their respective Annual Reports on Form 10-K for the year ended December 31, 2015, which filings are available from the SEC, and the registration statement on Form F-4, file number 333-208556, that includes a preliminary proxy statement of CCE and a preliminary prospectus of CCEP, which was filed with the SEC by CCEP. You should not place undue reliance on forward-looking statements, which speak only as of the date they are made. None of KO, CCE, CCIP or CCEP undertakes any obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events, or otherwise. None of KO, CCE, CCIP or CCEP assumes responsibility for the accuracy and completeness of any forward-looking statements. Any or all of the forward-looking statements contained in this filing and in any other of their respective public statements may prove to be incorrect.

## **NO OFFER OR SOLICITATION**

This communication does not constitute an offer to sell or the solicitation of an offer to buy any securities or a solicitation of any vote or approval.

## **IMPORTANT ADDITIONAL INFORMATION AND WHERE TO FIND IT**

CCEP has filed with the SEC a registration statement on Form F-4, file number 333-208556, that includes a preliminary proxy statement of CCE and a preliminary prospectus of CCEP. The registration statement has not been declared effective by the SEC and the information in the preliminary proxy statement/prospectus is not complete and may be changed. After the registration statement has been declared effective by the SEC, a definitive proxy statement/prospectus will be mailed to CCE's stockholders in connection with the proposed transaction. **INVESTORS ARE URGED TO READ THE DEFINITIVE PROXY STATEMENT/PROSPECTUS (INCLUDING ALL AMENDMENTS AND SUPPLEMENTS THERETO) AND OTHER DOCUMENTS RELATING TO THE TRANSACTION FILED WITH THE SEC WHEN THEY BECOME AVAILABLE, BECAUSE THEY WILL**

**CONTAIN IMPORTANT INFORMATION ABOUT THE PROPOSED TRANSACTION.** You may obtain a copy of the proxy statement/prospectus (when available) and other related documents filed by KO, CCE or CCEP with the SEC regarding the proposed transaction as well as other filings containing information, free of charge, through the website maintained by the SEC at [www.sec.gov](http://www.sec.gov), by directing a request to KO's Investor Relations department at (404) 676-2121, or to CCE's Investor Relations department at (678) 260-3110, Attn: Thor Erickson Investor Relations. Copies of the proxy statement/prospectus and the filings with the SEC that will be incorporated by reference in the proxy statement/prospectus can also be obtained, when available, without charge, from KO's website at [www.coca-colacompany.com](http://www.coca-colacompany.com) under the heading Investors and CCE's website at [www.cokecce.com](http://www.cokecce.com) under the heading Investors.

## **PARTICIPANTS IN SOLICITATION**

KO, CCE and CCEP and their respective directors, executive officers and certain other members of management and employees may be deemed to be participants in the solicitation of proxies in favor of the proposed merger. Information regarding the persons who may, under the rules of the SEC, be considered participants in the solicitation of proxies in favor of the proposed merger is set forth in the preliminary proxy statement/prospectus filed with the SEC. You can find information about KO's and CCE's directors and executive officers in their respective definitive proxy statements filed with the SEC on March 10, 2016, and March 9, 2016, respectively. You can obtain free copies of these documents from KO and CCE, respectively, using the contact information above. Information regarding CCEP's directors and executive officers is available in the preliminary proxy statement/prospectus filed with the SEC.



**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**COCA-COLA ENTERPRISES, INC.**  
**(Registrant)**

Date: April 7, 2016

By: /s/ Suzanne N. Forlidas  
Name: Suzanne N. Forlidas  
Title: Vice President, Secretary

and Deputy General Counsel

-6-

**EXHIBIT INDEX**

Exhibit

No.	Description
2.1	Transaction Master Agreement, as amended by the Amendment and Restatement Deed, dated as of April 7, 2016, among the Company, Red, Olive, Orange, MergeCo and US HoldCo *
2.2	Form of Shareholders Agreement among Orange, Olive HoldCo and Red*

\* Certain annexes and/or schedules have been omitted and the Company agrees to furnish supplementally to the Commission a copy of any omitted annexes and/or schedules upon request.