

WESTINGHOUSE AIR BRAKE TECHNOLOGIES CORP

Form 8-K

October 26, 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): October 26, 2016 (October 24, 2016)**

**WESTINGHOUSE AIR BRAKE**

**TECHNOLOGIES CORPORATION**

**(Exact Name of Registrant as Specified in Its Charter)**

**Delaware**

**(State or other Jurisdiction**

**of Incorporation)**

**033-90866**  
**(Commission**  
**File No.)**

**25-1615902**  
**(I.R.S. Employer**  
**Identification No.)**

**1001 Air Brake Avenue**

**Wilmerding, Pennsylvania**  
**(Address of Principal Executive Offices)**

**15148**  
**(Zip Code)**

**(412) 825-1000**

**(Registrant's Telephone Number, Including Area Code)**

**Not Applicable**

**(Former Name or Former Address, if Changed Since Last Report.)**

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 (see General Instruction A.2. below):

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 reported, on October 25, 2016, the Company issued a press release that provided an update on the Company's acquisition of Faiveley Transport, S.A. ( "Faiveley"). The Company anticipates completing the purchase of the Faiveley family shares, which equals 51% of Faiveley's outstanding shares, in November, subject to receiving the remaining regulatory approvals. At such point, Wabtec will issue a tender offer for the remaining public shares of Faiveley. The terms of the Faiveley transaction were modified on October 24, 2016. The modified terms include: (i) the terms of the material agreements have been extended to December 31, 2016 from the original date of October 27, 2016 (the Company can elect to further extend the term to March 21, 2017); (ii) the Company will acquire the Faiveley family shares for \$100 per share with between 25% to 45% of the consideration to be paid in cash, with the remaining consideration consisting of between 4.8 million to 6.3 million shares of the Company's common stock, depending on the percentage of cash the family chooses to take; (iii) public shareholders of Faiveley can elect to take 100% of the consideration in cash at \$100 per share, or a portion in the Company's common shares, capped at the same percentage of consideration chosen by the Faiveley family; and (iv) no Company preferred shares will be issued as part of the transaction.

The foregoing description of the amendments to the Share Purchase Agreement, Tender Offer Agreement and Shareholders Agreement does not purport to be complete and is qualified in its entirety by reference to the actual terms of such amendments, copies of which are attached hereto as Exhibit 2.1 through 2.3, and which are incorporated herein by reference.

### ***Forward-Looking Statements***

Statements contained in this report which are not historical facts are forward-looking statements as defined in the Private Securities Litigation Reform Act of 1995. These forward-looking statements and certain information contained in this report involve risks and uncertainties that could result in actual results differing materially from expected results, including Wabtec's proposed purchase of the Sellers' shares and subsequent tender offer, which is subject to regulatory and other conditions, the timing of the transaction and benefits expected to be derived therefrom. Forward-looking statements represent Wabtec's expectations and beliefs concerning future events, based on information available to Wabtec as of the date of this report. Wabtec undertakes no obligation to publicly update and revise any forward-looking statements to reflect events or circumstances that may arise after the date of this report. Additional information regarding these and other factors is contained in Wabtec's SEC filings, including without limitation Wabtec's Form 10-K and Form 10-Q filings.

### ***Certain Legal Matters***

This communication is not intended to, and does not, constitute, represent or form part of any offer, invitation or solicitation of an offer to purchase, otherwise acquire, subscribe for, sell or otherwise dispose of, any securities whether pursuant to this report or otherwise.

The distribution of this communication in jurisdictions outside the U.S. or France may be restricted by law or regulation and therefore any person who comes into possession of this communication should inform themselves about, and comply with, such restrictions. Any failure to comply with such restrictions may constitute a violation of the securities laws or regulations of any such relevant jurisdiction.

Faiveley is incorporated in France and listed on Euronext Paris and any offer for its securities will be subject to French disclosure and procedural requirements, which differ from those that are applicable to offers conducted solely in the U.S., including with respect to withdrawal rights, offer timetable, settlement procedures and timing of payments. The transactions described above will be structured to comply with French and U.S. securities laws and regulations applicable to transactions of this type.

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

(d) Exhibit.

The following exhibit is furnished with this report on Form 8-K:

Exhibit No.	Description
2.1	Amendment No. 1 to Share Purchase Agreement among Mr. Erwan Faiveley, Wabtec France, and Wabtec Corporation dated as of October 24, 2016
2.2	Amendment No. 1 to Tender Offer Agreement among Faiveley Transport, S.A., Wabtec France, and Wabtec Corporation dated as of October 24, 2016
2.3	Amendment No. 1 to Shareholder s Agreement among Financiere Faiveley S.A., Famille Faiveley Participations, Francois Faiveley, Erwan Faiveley, and Wabtec Corporation dated as of dated as of October 24, 2016

**SIGNATURE**

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

WESTINGHOUSE AIR BRAKE

TECHNOLOGIES CORPORATION

By: /s/ David L. DeNinno

**David L. DeNinno**

**Senior Vice President, General Counsel  
and Secretary**

Date: October 26, 2016

**EXHIBIT INDEX**

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