

TROUBLED CONCESSIONAIRE

RVR Uganda handed lifeline but it's still in limbo

Railway operator weighed with debt to staff, disputes over concession fees and vandalised tracks in places

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The EastAfrican

In a fresh turn of events, Uganda recently handed a lifeline to Rift Valley Railways when it withdrew its notice of termination to the troubled rail operator, leading the Commercial Court in Kampala to lift an injunction that the company had slapped on the government.

Despite this development two weeks ago, the rail operator has not moved an inch to resume cross-border operations which have been halted for months as crippling liabilities and a vandalised track put pressure on the company.

The EastAfrican has learnt that on November 22 – a day before the expiry of the injunction, which the court had extended several times – the government withdrew its notice of termination so that RVR could continue operating.

But it remains to be seen whether RVR can marshal the resources needed to pay staff salaries, clear debts owed to suppliers and repair the badly vandalised track in Mukono, Jinja, Iganga and Tororo, in order to resume operations.

"We decided to call their bluff," says Charles Kateba, the managing director of Uganda Railways Corporation.

"The government withdrew to allow the legal process to expire, then we shall see what happens."

In addition, the corporation says RVR owes concession fees amounting to \$15 million but the concessionaire disputes the figure that the government agency quotes.

"We paid the undisputed concession fees to URC on December 4," acting RVR chief executive Vincent Tshiongo told *The EastAfrican*. "There is another part we are disputing; but this is with Kenya."



RVR is yet to resume cross-border operations, two weeks on.
Picture: File

Mr Tshiongo says that RVR owed a total of \$450,000 in concession fees, but argues that URC also owed it money, which when deducted left \$150,000 that the concessionaire paid on December 4.

At the heart of the dispute is the formula used to calculate

the fees; if the formula works in RVR's favour, the company will escape a heavy liability.

Apparently, the rail operator was required to remit 11.1 per cent of its revenues, but at some point, there was a change in percentages that are applied in Kenya and Uganda and also

based on the fact that 80 per cent of the track is in Kenya and only 20 per cent is in Uganda.

"We are resuming discussions with Kenya Railways on the share of revenues between Kenya and Uganda."

When a Kenya court ruled in April this year that RVR's contract be terminated over the company's consistent failure to meet performance targets, including freight targets and concession fees, Uganda also followed suit, with the asset owner starting the termination process that was to conclude on September 5.

On September 4 the eve of the expiry of RVR's notice of termination, the company's shareholders Qalaa Holdings and Bomi Holdings sought court arbitration, arguing that it had been unfairly treated.

But with the business in Kenya legally and formally terminated, the Uganda section has struggled to stay on track; the Kenya head office controlled the revenues and bank accounts, but upon winding up this left Uganda in the lurch, with all services grinding to a halt.

ISSUES AT PLAY

RVR was handed the concession to run the Kenya-Uganda railway in 2006 for 25 years. But failure on key performance indicators led to the concession being restructured, with new shareholders and lenders brought on board along the way, leading to the company investment jumping to \$287 million – \$164 million of this coming from various lenders.

A lot of other vital suppliers like fuel suppliers, security services contractor and cleaners are also owed money.