RISK, AUDIT, AND OPERATIONAL EXCELLENCE:
THREE STRATEGIES TO OPERATIONALIZE YOUR PROGRAM

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DUKE ENERGY

AGENDA

- Introduction
- Phase 1: Background
  - Reasons to Operationalize
- Phase 2: Integration
  - Enterprise Risk Management
  - Internal Audit
  - Operational Excellence
- Phase 3: Follow-up
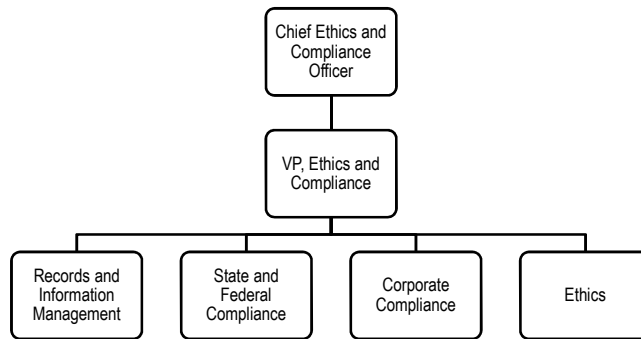 - Putting your information to work
- Conclusion

INTRODUCTION

DUKE ENERGY

Duke Energy and Piedmont Natural Gas
Service Territories

- **Customers**
  - 7.6 million retail electric customers, representing population of approximately 24 million people
  - 1.6 million natural gas customers
- **Regulated Generation**
  - Approximately 50,000 MW
- **Non-regulated Generation**
  - Duke Energy Renewables - wind/solar generation across 14 states – 2,900 MW
- **Workforce**
  - Approximately 29,000 employees

ETHICS AND COMPLIANCE AT DUKE ENERGY

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│   Compliance    │
│     Officer     │
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│  VP, Ethics and │
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│Records  │ │State and│ │Corporate│ │ Ethics  │
│and Info │ │Federal  │ │Compliance│ │         │
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Chief Ethics and Compliance Officer

VP, Ethics and Compliance

Records and Information Management State and Federal Compliance Corporate Compliance Ethics

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PHASE 1: BACKGROUND

DEFINITION

Operationalization:

1. put into operation or use.
"such measures would be difficult to operationalize"

2. express or define (something) in terms of the operations used to determine or prove it.
"previous studies have operationalized panic in terms of average time of group escape"

3. … a process of defining the measurement of a phenomenon that is not directly measurable, though its existence is inferred by other phenomena
" For example, in medicine, the phenomenon of health might be operationalized by one or more indicators like body mass index or tobacco smoking."

MOTIVATION

- "Filip Factors" found in the Principles of Federal Prosecution of Business Organizations in the United States Attorney's Manual
  - Specific factors to consider in:
    - Conducting an investigation of a corporate entity
    - Determining whether to bring charges
    - Negotiating plea or other agreements

- Not one size fits all, though there are common questions used to evaluate each individual entity and circumstances of the crime

- Questions consolidated and communicated by U.S. Department of Justice in the "Evaluation of Corporate Compliance Programs" memo in February 2017

- 11 topics and corresponding questions for each

EXAMPLES

Topic	Questions
Senior and Middle Management	Conduct at the Top – How have senior leaders, through their words and actions, encouraged or discouraged the type of misconduct in question?
Autonomy and Resources	Stature – How has the compliance function compared with other strategic functions in the company in terms of stature, compensation levels, rank/title, reporting line, resources, and access to key decision-makers?
Policies and Procedures	Accessibility – How has the company evaluated the usefulness of [these] policies and procedures?
Risk Assessment	Risk Management Process – What methodology has the company used to identify, analyze, and address the particular risks it faced?
Training and Communication	Form/Content/Effectiveness of Training – How has the company measured the effectiveness of the training?
Training and Communication	Availability of Guidance – What resources have been available to employees to provide guidance relating to compliance policies?

MILLION DOLLAR QUESTION

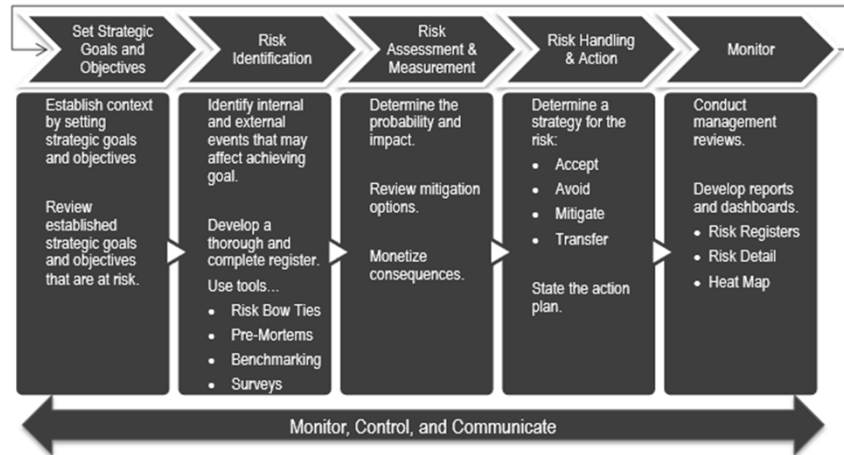# HOW DO YOU KNOW IT'S WORKING?

EVALUATION

How would your employees perform if interviewed by a regulator or prosecutor?

- Evaluate questions in the memo and consider:
  - How do you currently measure effectiveness?
    - Training
    - Communications
    - Controls
  - How do you determine if the program has reached the front lines?

- Next, identify:
  - Which questions need further attention?
  - Who is already talking to your employees?
  - Who collects data, preferably, directly from employees?
  - What other processes exist to measure culture?

PHASE 2: INTEGRATION

ERM: FRAMEWORK

Set Strategic Goals and Objectives	Risk Identification	Risk Assessment & Measurement	Risk Handling & Action	Monitor
Establish context by setting strategic goals and objectives Review established strategic goals and objectives that are at risk.	Identify internal and external events that may affect achieving goal. Develop a thorough and complete register. Use tools… • Risk Bow Ties • Pre-Mortems • Benchmarking • Surveys	Determine the probability and impact. Review mitigation options. Monetize consequences.	Determine a strategy for the risk: • Accept • Avoid • Mitigate • Transfer State the action plan.	Conduct management reviews. Develop reports and dashboards. • Risk Registers • Risk Detail • Heat Map

Monitor, Control, and Communicate

ERM: EVALUATION

- Reviewed existing annual risk assessment process with ERM staff

- Ethical considerations viewed primarily as a consequence of an event, but not as an actual risk itself
  - Ex. Ethics considered as part of a resulting investigation vs ethical misconduct triggering the investigation

- Developed a project plan to incorporate ethical risks during business unit risk planning
  - Charter
  - Sponsors
  - Schedule

ERM: STRUCTURE

- Step 1: Developed guidance for BU consideration of ethical risk in risk assessments

  - Risks are ideally already identified in your code of conduct and supporting policies

  - Included 17 topics

  - Address bad actors scenarios as well as unintentional nonconformance

  - Risks must still meet other established thresholds for inclusion on ERM register

    - If it doesn't meet thresholds, BU can determine other steps to take

    - At a minimum, it raises awareness with business leadership

    - Carefully consider level of detail, group v. individual

ERM: STRUCTURE

Policy Area	Description of Risk	Question
Open Door Policy	Taking an employment action against an employee because they raised a concern in good faith or participated in an investigation may be considered retaliation. Retaliation is illegal and exposes the company to regulatory penalties and costs associated with litigation.	• Are your leaders aware of the prohibition against taking an employment action because an employee raises a concern in good faith or participates in an investigation?
Equal Employment Opportunity Policy	Making a discriminatory employment decision based on a protected class is illegal and exposes the company to regulatory penalties and costs associated with litigation.	• Does your organization experience a high-rate of turnover? • Do your leaders engage in appropriate recruiting, selection, training and compensation practices?
Harassment-free Workplace Policy	Unwelcome behavior towards an employee because of a protected class characteristic is harassment, which is illegal and exposes the company to regulatory penalties and costs associated with litigation.	• Are your employees and leaders aware of the expectation to maintain a harassment-free workplace and professional relationships based on diversity, inclusion and respect? • Are there any ongoing issues related to harassment or unprofessional conduct that pose an ongoing risk to the organization?

ERM: STRUCTURE

- Step 2: Piloted Ethical risk assessment with one Business Unit and revised documentation as needed

  - Choose a department with greatest risk exposure profile

  - Run through the exercise

  - Feedback indicated some guidance asked leaders to attest to personal employee circumstances (i.e. do you know if any of your employees are running for or hold a political office? Leaders may not know)

  - Interesting interpretations: "material information" - insider trading v. FERC

- Step 3: Updated Enterprise Risk policies, procedures and templates

ERM: STRUCTURE

- Step 4: Provide training to those involved in the new process

  - In person training provided at department summit to:

    - Enterprise Risk associates

    - Business Unit representatives responsible for the risk assessment

  - Walked through each topic and question and provided additional guidance

  - Provided mitigation examples and resources

ERM: TRAINING

RISK AREA: RETALIATION

Questions	Policy Reference
Are your leaders aware of the prohibition against taking an employment action because an employee raises a concern in good faith or participates in an investigation?	Open Door Policy
Guidance	
• Taking an employment action against an employee in one of these situations may be considered retaliation. Retaliation is illegal and exposes the company to regulatory penalties and costs associated with litigation. • Leaders should actively foster a culture where your employees can speak up, ask questions, and raise concerns knowing they can do so without fear of retaliation.	

ERM: TRAINING

RISK AREA: DISCRIMINATION

Questions	Policy Reference
Does your organization experience a high-rate of turnover? Do your leaders engage in appropriate recruiting, selection, training and compensation practices?	Equal Employment Opportunity Policy
Guidance	
• Making a discriminatory employment decision based on a protected class is illegal and exposes the company to regulatory penalties and costs associated with litigation. • Hiring managers should abide by all talent acquisition procedures and be familiar with all legal and policy requirements prior to hiring. • Hiring managers should also be familiar with who to ask for assistance if needed.	

ERM: RESULTS

- Identify potential ethical risks to add to enterprise register

- Additional risks identified and addressed at BU level

- Other compliance owners evaluating whether they can model our process to provide more structure to evaluation of risks

- Process also prompted greater collaboration with Ethics Office (Invited to present at staff meetings.)

INTERNAL AUDIT: BACKGROUND

- Sought to capitalize on the in-person interactions with frontline personnel

- Approximately 90 process audits each year; contact with 1-50 individuals each

- Proposed having Auditors ask ethics-related questions as part of their audits
  - Sensitive to maintaining positive relationships

- Established process to keep audit work separate from ethics conversations
  - Notify participants of ethics component in initial audit communications
  - Provide disclaimer that conversations are separate from the audit and anything discussed will not impact audit findings
  - Resulting reports would not include names

INTERNAL AUDIT: STRUCTURE

- Determine which factors you want to measure:
  - Foundational concepts
  - Previously identified issues

- We chose 5 concepts to measure:
  - Expectations related to integrity and compliance are communicated to employee
  - Employee concerns are handled appropriately when brought to management's attention
  - Maintaining integrity is a priority when making business decisions
  - Company leadership models behaviors that align with our core values of safety, integrity, and service
  - Controls are in place to ensure employee behaviors align with the expectations in the CoBE

INTERNAL AUDIT: STRUCTURE

- Developed question bank for each concept; avoid yes or no questions
  - Managers
  - Individual contributors
- Allowed auditors to determine which questions to ask depending on audience and circumstances

Topic	Manager Question	Employee Question
Expectations related to integrity and compliance are communicated to employee	What methods do you use to communicate ethical expectations to your employees?	How do you access Code of Business Ethics and other documents if you have a question about you or someone else's conduct at work?
Maintaining integrity is a priority when making business decisions	Can you describe the process you use to determine if a business decision is ethical?	Are you aware of any instances where financial objectives have been placed above our commitment to integrity?

INTERNAL AUDIT: STRUCTURE

- Created a maturity model to quantify the responses

Expectations related to integrity and compliance are communicated to employees				
1	**2**	**3**	**4**	**5**
Basic: Almost nothing exists for this element.	Evolving: Some parts of this element exist, but application on different levels is inconsistent.	Established: Element is generally defined and consistently applied at core levels.	Advanced: Element is defined in more detail and consistently applied on most levels involved.	Leading Practice: Performance factor is defined in more detail and consistently applied on all levels.

- Auditors selected 1-5 individuals to speak with on each audit, usually led by a senior auditor
- Scored each conversation and provided an aggregate score for the department/location
  - If anything of note, provided comments for explanation
- Produced a year-end analysis of all findings

INTERNAL AUDIT: TRAINING

- Reviewed opening and closing script
- Role-played conversations as practice
- Provided specific guidance with how to handle a concern if raised
  - What to say and do in the moment
  - How to escalate a concern so it can be investigated
- Gave examples of anticipated responses and how to score them
  - Encouraged use of probing questions if participants are hesitant
- Walked through documents and tools
- How to interpret body language – sometimes no response is a response
- Encouraged auditors to communicate concerns or sensitivities directly to Ethics Office

INTERNAL AUDIT: RESULTS

- Facilitated conversations we could not have had otherwise due to resource constraints

- Clarified questions based on feedback

- Updated in year two to include union and contingent worker personnel
  - Modified original questions
  - Reviewed with legal before dissemination

INTERNAL AUDIT: RESULTS

Updated maturity model and provided example responses and how we would rank them

Expectations related to integrity and compliance are communicated to employees				
1 Basic: Almost nothing exists for this element.	**2** Evolving: Some parts of this element exist, but application on different levels is inconsistent.	**3** Established: Element is generally defined and consistently applied at core levels.	**4** Advanced: Element is defined in more detail and consistently applied on most levels involved.	**5** Leading Practice: Performance factor is defined in more detail and consistently applied on all levels.
Employees complete CoBE training each year.	Manager talked about it in a staff meeting once, but I never hear about it from anyone else in my department.	Communicated through staff meetings, departmental policies, goals, Portal, etc.	Most participants were able to cite multiple channels including CBT, company and departmental emails, team meetings, company meetings, portal resources, etc.	All participants could reference frequent and consistent messaging using a variety of channels.

OpEx: BACKGROUND

Operational Excellence
is the right task, the right way,
every time

Highest standards of safety

Optimized reliability

Sustainable efficiency

OpEx: BACKGROUND

- Contributed to revised framework:
  - "The Operational Excellence Framework is directly tied to the Enterprise Code of Business Ethics to ensure that we Deliver Results the Right Way, and is integrated with other Enterprise governance, including Health and Safety, Environmental, Enterprise Risk Management, Security and other policies."

  - Manager Responsibilities: "Guide employees to ensure that actions are consistent with the Duke Energy policies including the Code of Business Ethics and are fully compliant with all government regulations and requirements."

Operational Excellence = Results + Operational Discipline

Continuous Improvement

Management Systems

Employee Enablement

Accountability Model
Leading the Duke Energy Way

OpEx: STRUCTURE

- OpEx group created cross-functional teams to conduct assessments of operational implementation of the framework

- Identify both opportunities for improvement and strengths to leverage

- Assessments conducted onsite over the course of 3-5 days
  - Document reviews
  - In-person interviews
  - Site evaluations
  - Work observations

OpEx: STRUCTURE

- Inclusion of E&C personnel on the assessment team

  - Visibility to group being assessed
  - Visibility and partnerships with other members of the assessment team
  - Excellent development opportunity for E&C staff

- Provided overview of operational functions from an E&C perspective in pre-assessment briefing
  - Employee engagement data
  - High-level concern statistics
  - Compliance risk assessment ranking and previously identified gaps

OpEx: STRUCTURE

Incorporated ethics questions during personnel interviews:

Individuals

- How do you access the Code of Business Ethics and other documents if you have a question about your or someone else's conduct at work?
- How does your leadership embody the company's core values?
- How would you raise a concern to someone if you had one?
- What, if anything, would prevent you from raising a concern?

Managers

- How do you demonstrate ethical behavior?
- Are proposals for business strategies measured against our core values?
- How do you make sure employees are comfortable coming forward with a concern or question?

- Used similar maturity model from IA work

PHASE 3: FOLLOW-UP

NEXT STEPS

How can you use the data you've obtained?

- Communicate results to leadership
- Partner with under performers to implement improvement strategies
  - Communication plans
  - Targeted training
- Leverage successful strategies from high performers
  - They may surprise you!
- Identify areas for further auditing
- Create or update existing controls
- Incorporate into strategic E&C planning

QUESTIONS

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